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May 30, 2008
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MICHAEL W. DOBBINS
CLERK, U. S. DISTRICT COURT

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

Grace Jo P. O'Leary,
Plaintiff

vs.

St. Martin's Press,
and

Emily Giffin, Author, Defendants.

Case No.

08CV3129
JUDGE HIBBLER
MAG. JUDGE COX

COMPLAINT

I

The Plaintiff, Grace Jo P. O'Leary, is an individual residing at 1025 Pleasant Place, Apartment 11A in Oak Park, Illinois

II

This action is brought under the Copyright Act of 1976, as amended, 17 U.S.C.A. §§ 101 et. seq. This court has jurisdiction pursuant to 28 U.S.C.A. § 1338(a). Venue is conferred by 28 U.S.C.A. § 1400(a).

III

Prior to January 27, 2005, Plaintiff, who then was and ever since has been a citizen of the United States, created, wrote, and has in manuscript form an original novel entitled What If.

IV

Plaintiff's above-referenced manuscript contains a substantial amount of material created by Plaintiff's own skill, labor, and judgment, and is copyrightable subject matter under the laws of the United States.

V

Between January 27, 2005 the Plaintiff complied in all respects with the Copyright Act of 1976 and all others laws governing copyright by applying for copyright registration on May 29, 2007, making the required deposit, and receiving from the Registrar of Copyrights a certificate of registration, No. TXu1-353-304, dated June 1, 2007. A copy of such registration is attached as **Exhibit 48**

VI

1. Since January 27, 2005, the Plaintiff has been and still is the sole proprietor of all right, title, and interest in and to the copyright of the novel What If in manuscript.

CREATION OF THE COPYRIGHT

2. Creation of Plaintiff's What If copyright began on October 12, 2004 with the drafting of the first three pages of the original manuscript. Plaintiff continued in this fashion, creating and revising three or more pages in nearly daily writing sessions until on January 27, 2005, the completed manuscript numbered 401 pages. The Plaintiff has since revised the What If novel several times. The instant version, the 392-page Salzburg version, having been completed on August 30, 2005.

PLAINTIFF'S SEARCH FOR SUSPECTED INFRINGEMENTS
OF THE WHAT IF MANUSCRIPT

CLAIM 1

1. Plaintiff for a first count alleges: on January 2, 2007, Plaintiff began searching issues of Publishers Weekly because she suspected infringements of her What If manuscript had occurred.
2. For a second count Plaintiff alleges: on January 28, 2005, Plaintiff submitted the first draft of What If to a professor for review and comment. That draft manuscript with

edits was returned to Plaintiff on February 2, 2005. Plaintiff now believes that any infringement of such draft of Plaintiff's novel What If has been withdrawn from the publishing pipeline.

3. For a third count Plaintiff alleges: as a result of the Publishers Weekly search, Plaintiff discovered an unsuspected infringement. On April 4, 2005, Plaintiff had sent a query letter to a New York City literary agent. On April 13, 2007, Plaintiff filed a Complaint for copyright infringement, 07 CV 2047, against such publisher, literary agent, and author. When Plaintiff learned that query letters are not covered by the Copyright Act, Plaintiff filed a Stipulated Motion to Dismiss, granted on May 25, 2007. Further, that defendant publisher did not print the defendant author's twenty sixth (26) publication released in April 2008.

4. For a fourth count Plaintiff alleges: on September 30, 2005, Plaintiff mailed the 392-page Salzburg version of the What If manuscript to a New York literary agent. On January 2, 2008, Plaintiff filed another Complaint for copyright infringement, 08 CV 08, which Plaintiff alleges infringes the Salzburg version of her What If manuscript. Such suit is currently being litigated,

5. For a fifth count Plaintiff alleges: continuing her search of Publishers Weekly issues, Plaintiff encountered the review of yet another novel, which suggested to Plaintiff that Love the One You're With might, too, be an infringement. This novel, also, was previously unsuspected. Such March 17, 2008 Publishers Weekly review is attached as **Exhibit 49**.

DEFENDANTS ACCESS TO PLAINTIFF'S WHAT IF MANUSCRIPT

CLAIM 1

1. Plaintiff for a first count alleges: on January 12, 2005, Plaintiff sent a query letter regarding her novel What If to Theresa Park, at the time with Sanford Greenburger Associates. Plaintiff has also included three screen prints from Theresa Park's website, www.parkliterary.com. A copy of the Park query letter and the website prints are also attached as **Exhibit 49**.
2. For a second count Plaintiff alleges: the query letter referenced above brought Plaintiff's What If manuscript to Ms. Park's attention. Subsequent allegations of infringement enumerated below in this Complaint assert the Defendants had actual possession of Plaintiff's What If manuscript.
3. For a third count Plaintiff alleges: the "Acknowledgements" page of Defendant Giffin's novel Love the One You're With includes Theresa Park's name. A copy of which is also attached as **Exhibit 49**.
4. For a fourth count Plaintiff alleges: the right to include Theresa Park as a named defendant should discovery expose Park's participation in the alleged infringement by Love the One You're With of Plaintiff's What If manuscript.
5. For a fifth count Plaintiff alleges: the forty seven (47) instances of improper appropriation of expression and character and plot development contained in Plaintiff's What If manuscript, which appear within the first eighty four (84) pages of Defendant Giffin's novel Love the One You're With, removes from doubt any question as to the Defendants actual access to Plaintiff's What If manuscript.

6. For sixth count Plaintiff alleges: none of the infringed expressions contained in her What If manuscript and previously cited in the 08 CV 08 Complaint are repeated within the first 84 pages of Defendants' novel Love the One You're With.

CLAIM 2

COMPARISON OF LOVE THE ONE YOU'RE WITH PLAINTIFF'S WHAT IF MANUSCRIPT

1. Plaintiff for a first count alleges: Defendant St. Martin's Press on the copyright page, attached as **Exhibit 50**, of Defendant Giffin's novel Love the One You're With states:

This is a work of fiction. All of the characters, organizations, and events portrayed in this novel are either products of the author's imagination or are used fictitiously.

2. For a second count Plaintiff alleges: certain expressions and character and plot development contained in Love the One You're With are actually not products of Defendant Giffin's imagination, but rather are based on material improperly appropriated from Plaintiff's What If manuscript. In consideration of the Court's time, the volume of this submission, and its cost, Plaintiff has limited the list of infringements to the first 84 pages of Defendant Giffin's novel Love the One You're With. Therefore, further examples of such alleged infringement will be submitted at the Court's request.

3. For a third count Plaintiff alleges: the following table is a side-by-side comparison of expressions and character and plot development contained within Defendant Giffin's novel Love the One You're With, with the original expressions and character and plot development from Plaintiff's What If manuscript. Below Plaintiff summarizes these substantially similar takings, also attached as **Exhibits 1 through 47**.

<u>Love the One You're With</u>	<u>The Salzburg version of What If</u>
Ex 1 "I saw him smack-dab in the middle of the crosswalk of Eleventh and Broadway," par. 1, p1.	"[As I enter an elevator] Charley Walker is all I see," par. 5, p2.
Ex 2 "...two seeming strangers, with little in common . . .," par. bridg.1-2, p2.	"What can you possible say to him, Bonnie?" par. 3, p17.
Ex 3 "Inside, I was reeling, churning, breathless as I made it onto the safety of the curb . . .," par. 1, p2.	"Churning excitement and dread are inexplicable companions," par. 1, p26.
Ex 4 "... unfinished business . . .," par. 1, p2.	"Where the hell were you? I went to Sherman Hall to pick you up for our coffee date. The dorm mother said you weren't there," par. 1, p9.
Ex 5 "... the back corner of the restaurant . . .," par. 3, p2.	"In the back corner, there's a table behind a partial wall," par. 4, p16.
Ex 6 "... sunny personality . . . blond, blue-eyes good looks," par. 3, p3.	"And the slender blue-eyed blonde," par. 3, p3.
Ex 7 "A voice I hadn't heard in eight years and sixteen days," par. 3, p5.	"I knew him in college," par. 5, p2.
Ex 8 "... it was like stepping back in time," par. 4, p5.	"As bygone as 1959 is the college freshman," par. 3, p3
Ex 9 "... usually a not-so-glorious back story," par. 1, p8.	"But no angel here," par. 2, p10
Ex 10 "... my hometown of Pittsburgh . . .," par. 3, p8.	"In post-steel Pittsburgh I was divorcing with an eight-month-old infant," par. 4, p114. My sister, Margot, still lives in Pittsburgh.
Ex 11 "... North Carolina . . ." par. 3, p8.	My sister, Margot, and I as children almost drown when we lived in North Carolina.

Ex 12 "... a Yankee misfit." par. 2, p9.	"... a six-year-old Yankee and the object of rock-throwing southern children in 1946," par. bridg 42-43, p43.
Ex 13 "... a steel-town girl ...," par. bridg. p9-10, p10.	The notion that my sister, Margot, Mag, or myself might call ourselves "steel-girl" is ludicrous. Further underscoring this taking as both improper and inaccurate. Steel left Pittsburgh when the protagonist was age 5. See Chicago Tribune article on Pittsburgh.
Ex 14 "... the Southern WASP equivalent of the Kennedys," par. 3, p5.	"Then, after the assassination. I worked for Jacqueline Kennedy in a sub-basement of the Pentagon," par. 5, p21. This taking is not only improper, it's incorrect. The Kennedys were neither Anglo-Saxon, nor Protestant.
Ex 15 "... far more comfortable on the sidelines of things," par. 2, p13.	"I stood next to the wall hoping someone would talk to me," par. 2, p4.
Ex 16 "... single red checker sidling up to double-decker ones, just waiting to be jumped," par. 4, p15.	"Charley moves people around like checkers. Jumping some, kinging others with the unfortunates," par. 6, p343.
Ex 17 "He doesn't see me at first, and for some reason, this gives me a vague sense of power," par. 2, p16.	"I'm far enough from the front desk to observe him surreptitiously for a few moments," par. 3, p196.
Ex 18 "... his brown eyes," par. 5, p16.	"His eyes are as brown as a tae kwon do belt," par. 2, p3.
Ex 19 "... shedding his black leather coat I remembered so well," par. 2, p16.	"... slides his denim jacket over the chair back," par. 4, p16.
Ex 20 "The Law student?" par 8, p18.	"It will expand my skills as an intellectual property paralegal," par. bridg 1-2, p2.

Ex 21 "... dropping a few bills on the table, standing and stalking off," par. 2, p19.	"Here's fifty. ... Charley pushes the table, pinning me to the booth ... Charley's half way to the front entrance," par.1-3, p77.
Ex 22 "... feel his hand covering mine," par. 2, p19.	"Covers my hand with his own," par. bridg 149-150.
Ex 23 "My left hand is clenched under the table," par. 2, p19.	"Two clenched fists hide beneath the tabletop," par. 5, p24.
Ex 24 "It's water under the bridge," par. 8, p19.	"Michigan Avenue Bridge over the Chicago River ... Morosely he stares into its dark, churning water," par. 5, p49.
Ex 25 "What do you say we give the friendship thing a try?" par. 2, p20.	"Maybe a friendship for his occasional trips to Chicago," par. 4, p43.
Ex 26 "... cast about for distractions," par. 2, p21	"I search for a distraction ...," par. 5, p48.
Ex 27 "I tell myself that none of it matters now," par. 1, 22	"Now it doesn't matter," par. 4, p26.
Ex 28 "... that first chance encounter . . .," par. 3, p23.	". . . since our eyes locked in the elevator . . .," par. 1, p 39.
Ex 29 "... in October," par. 3, p23.	"Halloween is everywhere," par. 3, p1.
Ex 30 "I was fulfilled, happy, and hopeful," par. 2, p28.	"I have a sane and happy life. Boring perhaps, but sane and happy," par. 5, p8.
Ex 31 "... all of that changed in a flash when I saw Leo for the first time," par. 2, p29.	"Before Charley entered my life again, I was content," par. 1, p149.
Ex 32 "... more sexy than handsome," par. 3, p29.	"Except Jack Kennedy had the additional advantage of being handsome. Charley has no such advantage," par. 1, p269.

Ex 33 "I didn't really believe that was all he wanted—and a large measure of me hope that it wasn't," par. 10, p36.	"There's a place inside that hopes the ultimate intimacy would express how I feel. My parting gift to you is that I want to," par. bridg 161-2, p162.
Ex 34 "... intense . . .," par. bridg., 39-40, p40.	"Notorious is his ferocity," par. 7, p8.
Ex 35 "... in everybody's best interest to keep my insignificant secret a secret," par. 6, p41.	"So far, neither Emily or anyone else knows," par. 4, p82.
Ex 36 "... just under my oversized T-shirt." par. 1, p54.	"I tuck my knees under the University nightshirt," par. 2, p354.
Ex 37 "Thoughts of Leo fade almost completely over the next week," par. 1, p55.	"I'd just about gotten over Charley Walker. As in not forgotten, but no longer occupying my every waking thought," par. 6, p69.
Ex 38 "It's amazing what a productive, satisfying week of work can do for your psyche, and I consider myself very lucky . . .," par. 1, p55.	"There's great value in being forced to do what I don't want to do.," par. 1, p166.
Ex 39 "... to have the kind of job I can get happily lost in." par. 1, p55.	"I love the work. I'm lucky to be able to do something I'm good at," par. 4, p179.
Ex 40 "I don't talk easily to strangers . . .," par. 1, p56.	"I stood next to the wall hoping someone would talk to me," par. 2, p4.
Ex 41 "Money isn't important to me. I'm happy with a simple life." par. 2, 57	"What can you possibly see in him besides his money, which I know you don't care about. Otherwise you'd still have your last job," par. 8, p252.
Ex 42 "The worst of the pain had receded with time, as it always does," par. 1, p73.	"Somewhere inside there is a spark of life . . . and fan it back to flame. Tomorrow I'll have to search it out," par. 3, p353.

Ex 43 "Rather, I was in Atlanta, home with Margot and Andy for Thanksgiving," par. 2, p74.	"I'm going to a Thanksgiving dinner at some producer's house," par. 5, 83.
Ex 44 "I was thinking how lucky I was to be here . . .," par bridg 75-76, p76.	"I realize how lucky I am," par. 1, p135.
Ex 45 "He's not calling to check on you, is he?" par. 1, p78.	"He hasn't called or anything?" par. 4, p188. .
Ex 46 " <i>Not possible</i> was my first instinct," par. 6, p79.	" <i>Can it be Bonnie Lancaster? What? Are you mad?</i> " par. 4, p7.
Ex 47 ". . . sort of like your first day of feeling healthy after a vicious case of the flu," par. 2, p84.	"I was in the university hospital, Charley. I had a fever of 103°. Asian Flu," par. 2, p9.

4. For a fourth count Plaintiff alleges: certain expressions of theme and plot and character development contained within Love the One You're With are substantially similar to Plaintiff's What If manuscript, though Defendants have inverted, condensed, expanded, paraphrased or directly quoted such expressions to avoid detection of infringement. These substantially similar expressions contained in the first 84 pages of Love the One You're With are summarized below for both novels.

<u>Love the One You're With</u>	The Salzburg version of <u>What If</u>
Chance sudden encounter after a lengthy separation.	Chance sudden encounter after a lengthy separation.
Sexual attraction between married female and single male.	Sexual attraction between married male and single female.
Male "friend" writer.	Male "friend" singer.
Narcissistic, self-involved male lover.	Narcissistic, self-involved male "friend."
Black leather coat.	Denim jacket.

Proper vs. rough-hewn.	Proper vs. rough-hewn.
Blonde, blue-eyed lawyer.	Blonde, blue-eyed paralegal.
Female protagonist moves from Pittsburgh to North Carolina	Female protagonist moves from North Carolina to Pittsburgh.
Sister-like friend, Margot.	Sister, Margot.
Controlling friend, Margot.	Controlling friend, Emily.

VIII

After May 13, 2008 and continuously since about May 13, 2008, Defendant St. Martin's Press has been publishing, selling, and otherwise marketing the book entitled Love the One You're With and has thereby been engaged in unfair trade practices and unfair competition against the Plaintiff to the Plaintiff's irreparable damage, which cannot be adequately calculated or compensated in money damages.

IX

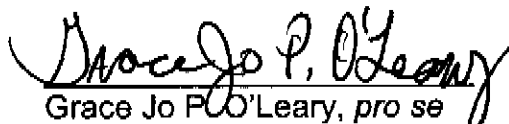
There is substantial likelihood that the Plaintiff will succeed on the merits of this action.

WHEREFORE, Plaintiff requests that:

1. Defendants St. Martin's Press, publisher, and Emily Giffin, Author, their agents and servants be enjoined during pendency of this action and permanently from infringing the aforementioned copyright of Plaintiff in any manner, and from publishing, selling, marketing, or otherwise disposing of any copies of the book entitled Love the One You're With.

2. Defendants be required to pay to the Plaintiff such damages as the Plaintiff has sustained in consequence of Defendants' infringement of Plaintiff's copyright and Defendants' unfair trade practices and unfair competition, and to account for
 - a. All gains, profits, and advantages derived by Defendants through such trade practices and unfair competition; and
 - b. All gains, profits, and advantages derived by Defendants through their infringement of Plaintiff's copyright, or such damages as to the Court shall appear proper within the provisions of the copyright statutes but no less than three hundred and fifty dollars (\$350).
3. Defendants be required to deliver to be impounded during the pendency of this action all copies of the book Love the one You're With in their possession or under their control, and to deliver up for destruction all infringing copies and all plates, molds, and other matter for making such infringing copies.
4. Defendants pay to Plaintiff the costs of the action and reasonable attorney's fees to be allowed Plaintiff by the Court.
5. Plaintiff has such other and further relief as is just.

Dated: May 30, 2008


Grace Jo P. O'Leary, *pro se*
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Oak Park, Illinois 60303-3154
708.660.9317

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Copyright Registration for the Novel What If

Exhibit 49

Publishers Weekly March 17, 2008 Review of
Love the One You're With

What If Query Letter to Theresa Park, at Sanford Greenburger Associates

Three screen prints from Theresa Park's website, www.parkliterary.com

"Acknowledgements" page of Love the One You're With

Exhibit 50

Copyright Page for Love the One You're With

Infringement No. 1, Exhibit 1

one

It happened exactly one hundred days after I married Andy, almost to the minute of our half-past-three-o'clock ceremony. I know this fact not so much because I was an overeager newlywed keen on observing trivial relationship landmarks, but because I have a mild case of OCD that compels me to keep track of things. Typically, I count insignificant things, like the steps from my apartment to the nearest subway (341 in comfortable shoes, a dozen more in heels); the comically high occurrence of the phrase "amazing connection" in any given episode of *The Bachelor* (always in the double digits); the guys I've kissed in my thirty-three years (nine). Or, as it was on that rainy, cold afternoon in January, the number of days I had been married before I saw him smack-dab in the middle of the crosswalk of Eleventh and Broadway.

From the outside, say if you were a cabdriver watching frantic jaywalkers scramble to cross the street in the final seconds before the

WHAT IF - Chapter 1

2

luxuriate in the sunshine on my way to training in a computer database. LexisNexis. It will expand my skills as an intellectual property paralegal. Patents, trademarks, trade secrets, copyrights.

At the training's end, I turn the corner into a 22nd floor marble elevator corridor. Smoothing the skirt of my black and white print sheath, I'm not eager to return to the office. I'd rather click the heels of my black patent leather pumps. But work awaits.

The gray glass- and honey marble-paneled elevators ferry bankers, economists, attorneys to the first floor of Marshall Field, Jr.'s 45-story office building.

Marshall Field initiated its construction to employ tradesmen idled by the Great Depression. He chose only the finest materials. Now the LaSalle Bank Building, the Art Deco design included a penthouse for his mistress. Today it's the Chicago office of an Indianapolis intellectual property law firm.

Framed in green marble, eight pairs of black-lacquered doors striped in bottle green await. The far left pair slides open. I step inside.

The animated conversation stops abruptly. Curious, I glance at the four men. Charley Walker is all I see. I knew him in college. Now, he's a rock 'n' roll legend! Everything else vanishes.

/

Infringement No. 2, Exhibit 2

emily giffin

light changed, it was only a mundane, urban snapshot: two seeming strangers, with little in common but their flimsy black umbrellas, passing in an intersection, making fleeting eye contact, and exchanging stiff but not unfriendly hellos before moving on their way.

But inside was a very different story. Inside, I was reeling, churning, breathless as I made it onto the safety of the curb and into a virtually empty diner near Union Square. *Like seeing a ghost*, I thought, one of those expressions I've heard a thousand times but never fully registered until that moment. I closed my umbrella and unzipped my coat, my heart still pounding. As I watched a waitress wipe down a table with hard, expert strokes, I wondered why I was so startled by the encounter when there was something that seemed utterly inevitable about the moment. Not in any grand, destined sense; just in the quiet, stubborn way that unfinished business has of imposing its will on the unwilling.

After what seemed like a long time, the waitress noticed me standing behind the Please Wait to Be Seated sign and said, "Oh. I didn't see you there. Should've taken that sign down after the lunch crowd. Go ahead and sit anywhere."

Her expression struck me as so oddly empathetic that I wondered if she were a moonlighting clairvoyant, and actually considered confiding in her. Instead, I slid into a red vinyl booth in the back corner of the restaurant and vowed never to speak of it. To share my feelings with a friend would constitute an act of disloyalty to my husband. To tell my older and very cynical sister, Suzanne, might unleash a storm of caustic remarks about marriage and monogamy. To write of it in my journal would elevate its importance, something I was determined not to do. And to tell Andy would be some combination of stupid, self-destructive, and hurtful. I was bothered by the lie of omission, a black mark on our fledgling marriage, but decided it was for the best.

"What can I get you?" the waitress, whose name tag read *Annie*,

WHAT IF - Chapter 2

17

Starbucks' pungent odor revives Charley's first gig, the Intuitive Mug. Then, the aborted coffee date at the "V". Dashed expectations, bitterness. Charley's anger prefers its own company, rather than an explanation.

We face each other for the most grueling moments of my life.

What can you possibly say to him, Bonnie?

Was it so, crammed together on the return from the ski lodge? If we don't find some common ground, our serendipitous opportunity will expire. Dashed hope as bitter as burned decaf. The perfect complement to his resentment.

Excruciatingly I'm aware of the disparity in our lives. My knees quiver at the conceit that I might have something to say. The silence echoes in the deserted cafeteria. The gulf is broad. A backseat filled with flickering audiences, innumerable fan websites, untold quantities of vinyl, tapes, CD's. I want to run. I feel so inept, I'll wet my pants and run home.

Charley smiles, a grayer version of a concert poster or album cover. With his elbows on the table and a small grin he asks, "Am I putting you off?"

"How about launched to Pluto?" I've never felt so gauche. My hands twist in my lap. Surely they'll tremble if I grab the coffee mug.

Infringement No. 3, Exhibit 3

emily giffin

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WHAT IF - Chapter 2

26

"Let's walk over to my office. I need to let my boss know I'm taking the rest of the afternoon off. It will be the rest of the afternoon, won't it?" Churning excitement and dread are inexplicable companions. But not cautionary.

"I hope so. I'm catching a plane back to L.A. in the morning. I've been invited to dinner and a theater opening tonight. Some experimental place on the North Side. She's supposed to be an up-and-coming playwright."

My stomach tightens. "Lincoln Avenue perhaps?"

"I'm not sure. Now, it doesn't matter." It relaxes.

Quickly we cover the three blocks to my building. The blonde and beige marble theme with raspberry thrown echos through my building as well. From the front lobby, I survey another block-long hall and glance back at Charley.

He's pulled out his cell phone. "I'll call my friends while you go upstairs. Let's meet here in 10 minutes."

"Been there, Charley."

He grabs my hand again. "I'm too old for that shit, Bonnie. I'll be here." He twirls me toward the back of the building.

Infringement No. 4, Exhibit 4

emily giffin

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"What can I get you?" the waitress, whose name tag read *Annie*,

WHAT IF - Chapter 1

9

Charley's fists jump from his pockets to his hips. "Where the hell were you? I went to Sherman Hall to pick you up for our coffee date. The dorm mother said you weren't there."

I stutter, "I was in the university hospital, Charley. I had a fever of 103°. Asian Flu."

"So why didn't you call," he demands.

"I didn't get back to Sherman for four weeks--two in the hospital and two at my aunt and uncle's. By that time, no one thought to tell me you'd been there."

"We had a date, Bonnie. I was there." Charley glares at me.

My eyes drop to the beige confetti marble floor. "I'm sorry, Charley. But clearly it wasn't supposed to be. I only had a little life ahead of me. You had fame and fortune." I chance a glance at his angry face.

Charley takes a deep breath, pockets his hands and starts again. "Could we please have coffee or something? To catch up on the last 45 years. Don't you think you owe me?"

"I, uh, really?" His demand in view of our relative social importance offers some courage.

"It's the least you can do, Bonnie. After 45 years." Charley checks the pedestrian flow in and out of the building. So far no one seems to have recognized him. Is he disappointed?

"It was so long ago, Charley. Are you still mad?"

Infringement No. 5, Exhibit 5

emily giffin

light changed, it was only a mundane, urban snapshot: two seeming strangers, with little in common but their flimsy black umbrellas, passing in an intersection, making fleeting eye contact, and exchanging stiff but not unfriendly hellos before moving on their way.

But inside was a very different story. Inside, I was reeling, churning, breathless as I made it onto the safety of the curb and into a virtually empty diner near Union Square. *Like seeing a ghost*, I thought, one of those expressions I've heard a thousand times but never fully registered until that moment. I closed my umbrella and unzipped my coat, my heart still pounding. As I watched a waitress wipe down a table with hard, expert strokes, I wondered why I was so startled by the encounter when there was something that seemed utterly inevitable about the moment. Not in any grand, destined sense; just in the quiet, stubborn way that unfinished business has of imposing its will on the unwilling.

After what seemed like a long time, the waitress noticed me standing behind the Please Wait to Be Seated sign and said, "Oh. I didn't see you there. Should've taken that sign down after the lunch crowd. Go ahead and sit anywhere."

Her expression struck me as so oddly empathetic that I wondered if she were a moonlighting clairvoyant, and actually considered confiding in her. Instead, I slid into a red vinyl booth in the back corner of the restaurant and vowed never to speak of it. To share my feelings with a friend would constitute an act of disloyalty to my husband. To tell my older and very cynical sister, Suzanne, might unleash a storm of caustic remarks about marriage and monogamy. To write of it in my journal would elevate its importance, something I was determined not to do. And to tell Andy would be some combination of stupid, self-destructive, and hurtful. I was bothered by the lie of omission, a black mark on our fledgling marriage, but decided it was for the best.

"What can I get you?" the waitress, whose name tag read *Annie*,

WHAT IF

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CHAPTER 2 - FINALLY, THE COFFEE DATE

Are you really sure you want to do this, Bonnie?

Self-consciously I smile and plunge ahead. "I used to work in the building, Charley. There's a cafeteria in the basement." In midafternoon, it will be deserted. No gawkers, no photos. I want to vault over the marble wall and ski down the brass hand rails.

Instead, I turned down the wide confetti marble steps into the uncharted. A rock star and a paralegal. Once again, too naive to wonder what I'm getting into.

In the back corner, there's a table behind a partial wall. We slip into slate gray plastic chairs, tucked under a white Formica table. Facing the back wall, in a fluid motion Charley slides his denim jacket over the chair back. His jade green cotton pullover makes his eyes sing. Once more I stand. Removing my lined trench coat, I fold it lengthwise and drape it over the chair next to the window into the main dining room. With nary a fan in sight.

Infringement No. 6, Exhibit 6

love the one you're with

asked me. She had curly red hair and a smattering of freckles, and I thought, *The sun will come out tomorrow.*

I only wanted a coffee, but as a former waitress, remembered how deflating it was when people only ordered a beverage, even in a lull between meals, so I asked for a coffee and a poppy seed bagel with cream cheese.

"Sure thing," she said, giving me a pleasant nod.

I smiled and thanked her. Then, as she turned toward the kitchen, I exhaled and closed my eyes, focusing on one thing: how much I loved Andy. I loved everything about him, including the things that would have exasperated most girls. I found it endearing the way he had trouble remembering people's names (he routinely called my former boss Fred, instead of Frank) or the lyrics to even the most iconic songs ("Billie Jean is not my mother"). And I only shook my head and smiled when he gave the same bum in Bryant Park a dollar a day for nearly a year—a bum who was likely a Range Rover-driving con artist. I loved Andy's confidence and compassion. I loved his sunny personality that matched his boy-next-door, blond, blue-eyed good looks. I felt lucky to be with a man who, after six long years with me, still did the half-stand upon my return from the ladies' room and drew sloppy, asymmetrical hearts in the condensation of our bathroom mirror. Andy loved *me*, and I'm not ashamed to say that this topped my reasons of why we were together, of why I loved him back.

"Did you want your bagel toasted?" Annie shouted from behind the counter.

"Sure," I said, although I had no real preference.

I let my mind drift to the night of Andy's proposal in Vail, how he had pretended to drop his wallet so that he could, in what clearly had been a much-rehearsed maneuver, retrieve it and appear on bended knee. I remember sipping champagne, my ring sparkling in

WHAT IF - Chapter 1

3

His gaunt face is scarred by drugs, the burdens of fame and perhaps ancient trauma. He's not much taller than I. His body seems to abhor fat. Perhaps it's the smoking. I acquired an extra 20 pounds, when I quit.

His eyes are as brown as a tae kwon do belt. Their intensity as integral to his personality as a string to a top. Ready to spring in a denim jacket, faded jeans and western boots. His short hair is steel gray. He's clean shaven. Accentuating the ravages of time, celebrity and drug abuse.

As bygone as 1959 is the college freshman, chunky with middle-class prosperity, strumming a guitar and singing outside a men's dormitory. And the slender blue-eyed blonde.

For students transferring to the university, from which my father and uncle graduated, the sock hop died of boredom. With rarefied SATs but a lower-third class ranking, it was good to be a legacy. Sputnik went up one prior October afternoon in physics class. Boosting the lure of science. The teacher tolerated us two girls for sweaters and blonde relief. I aspired to chemical engineering. Like my uncle and my dad.

We were the last of the Traditionals. Baby Boomers were just entering high school. The last of them, like my eldest son, was waiting to be born.

Infringement No. 7, Exhibit 7

love the one you're with

after our practical gifts were unpacked in our tiny apartment in Murray Hill—and the impractical, fancy ones were relegated to our downtown storage unit. It came as we settled into our husband-and-wife routine. Casual, easy, and real. It came every morning, as we sipped our coffee and talked as we got ready for work. It came when his name popped into my inbox every few hours. It came at night as we shuffled through our delivery menus, contemplating what to have for dinner and proclaiming that one day soon we'd actually use our stove. It came with every foot massage, every kiss, every time we undressed together in the dark. I trained my mind on these details. All the details that comprised our first one hundred days together.

Yet by the time Annie brought my coffee, I was back in that intersection, my heart thudding again. I suddenly knew that in spite of how happy I was to be spending my life with Andy, I wouldn't soon forget that moment, that tightness in my throat as I saw his face again. Even though I desperately wanted to forget it. *Especially* because I wanted to.

I sheepishly glanced at my reflection in the mirrored wall beside my booth. I had no business worrying about my appearance, and even less business feeling triumphant upon the discovery that I was, against all odds on an afternoon of running errands in the rain, having an extraordinarily good hair day. I also had a rosy glow, but I told myself that it was only the cold that had flushed my cheeks. Nothing else.

And that's when my cell phone rang and I heard his voice. A voice I hadn't heard in eight years and sixteen days.

"Was that really you?" he asked, me. His voice was even deeper than I remembered, but otherwise it was like stepping back in time. Like finishing a conversation only hours old.

"Yes," I said.

WHAT IF - Chapter 1

2

luxuriate in the sunshine on my way to training in a computer database. LexisNexis. It will expand my skills as an intellectual property paralegal. Patents, trademarks, trade secrets, copyrights.

At the training's end, I turn the corner into a 22nd floor marble elevator corridor. Smoothing the skirt of my black and white print sheath, I'm not eager to return to the office. I'd rather click the heels of my black patent leather pumps. But work awaits.

The gray glass- and honey marble-paneled elevators ferry bankers, economists, attorneys to the first floor of Marshall Field, Jr.'s 45-story office building.

Marshall Field initiated its construction to employ tradesmen idled by the Great Depression. He chose only the finest materials. Now the LaSalle Bank Building, the Art Deco design included a penthouse for his mistress. Today it's the Chicago office of an Indianapolis intellectual property law firm.

Framed in green marble, eight pairs of black-lacquered doors striped in bottle green await. The far left pair slides open. I step inside.

The animated conversation stops abruptly. Curious, I glance at the four men. Charley Walker is all I see. I knew him in college. Now, he's a rock 'n' roll legend! Everything else vanishes.

Infringement No. 8, Exhibit 8

love the one you're with

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WHAT IF - Chapter 1

3

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We were the last of the Traditionals. Baby Boomers were just entering high school. The last of them, like my eldest son, was waiting to be born.

Infringement No. 9, Exhibit 9

emily giffin

he looked and sounded like. Was he on a first date, holding someone's hand with Jujubes and a large Sprite between them? Or was he much older, already in college and experienced in the ways of women and the world? Was he the star quarterback or the drummer in the marching band? Would I meet him on a flight to Paris? In a high-powered boardroom? Or the produce aisle in the grocery store in my own hometown? I imagined us telling our story, over and over, our fingers laced together, just like those adoring couples on the big screen.

What I had yet to learn, though, is that things are seldom as neat and tidy as that starry-eyed anecdote you share documentary-style on a couch. What I figured out over time is that almost always, when you hear those stories from married couples, there is a little poetic license going on, a romantic spin, polished to a high shine over time. And unless you marry your high school sweetheart (and even sometimes then), there is usually a not-so-glorious back story. There are people and places and events that lead you to your final relationship, people and places and events you'd prefer to forget or at least gloss over. In the end, you can slap a pretty label on it—like serendipity or fate. Or you can believe that it's just the random way life unfolds.

But no matter what you call it, it seems that every couple has two stories—the edited one to be shared from the couch and the unabridged version, best left alone. Andy and I were no different. Andy and I had both.

Both stories, though, started the same way. They both started with a letter that arrived in the mail one stiflingly humid afternoon the summer after I graduated from high school—and just a few short weeks before I'd leave my hometown of Pittsburgh for Wake Forest University, the beautiful, brick school in North Carolina I had discovered in a college catalog and then selected after they offered me a generous scholarship. The letter contained all sorts of important details about curriculum, dorm living, and orientation. But, most important,

WHAT IF - Chapter 1

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"I remember you as an angel, Bonnie. Hovering above me. Don't you remember? I watched you skating on the ski weekend. I sat next to you in the backseat going back to school. I wished we were alone. I asked you to have coffee the following afternoon at the Varsity. On Monday I went to Sherman. The dorm mother said you weren't there."

"I do remember, Charley. Like yesterday. But no angel here. The last 45 years have adequately demonstrated my earth-bound humanity. However, if you show me yours, I guess I can show you mine."

Sorority rush opened several weeks after the transfer students dance. With 75 percent of the university's students commuting, the Greek system provided both family and society for those far from home. I was nearly a thousand miles, Charley four hundred.

As dorm life had been stunted by the mean girl, my social life blossomed. After pledging a sorority, I learned the concept of triple dating. On school nights we played bridge, drank black coffee and took notes for our careers as suburban housewives. We were the girls fraternity guys took home to mom. Many of my junior- and senior-year sorority sisters were pinned.

Between classes, I studied physics, chemistry, ethics, history to jump-start my GPA. I hoped for a 3.0. Father had

Infringement No. 10, Exhibit 10

emily giffin

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WHAT IF - Chapter 9

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rested atop a bookcase. It was turned on only for special events or to watch shows sponsored by father's corporation. At the time no one could have or would have guessed that in less than two years I'd receive a Christmas gift from her. A signed copy of "The Green Room."

Equally vivid are John Glenn's first orbital flight in March 1962, just days before my first son's birth. And the televised film of the Mrs. Kennedy's trip to East Asia. Watching it now, it seems ludicrous that she and her sister, Princess Lee Radziwill, were expected to ride an elephant in linen sheaths, hose and pumps.

By October 1962, my brother, his wife, my seven-month-old son and I lived in a Monroeville, PA cookie-cutter house. In that living room, we and America watched John Kennedy stare down Nikita Khrushchev in the mid-Atlantic. Eyeball to eyeball, missile silo to missile silo.

Several weeks later I took the Civil Service exam which earned me an editorial assistant's position in the Pentagon. The mission was topical bibliographies for the Joint Chiefs of Staff.

In post-steel Pittsburgh I was divorcing, with an eight-month-old infant. I needed a job to support my own family. On Friday afternoon I reported for the exam. After distributing the second part of the test, the proctor asked me to bring the completed section back to her office when I finished. I did.

Infringement No. 11, Exhibit 11

emily giffin

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Infringement No. 12, Exhibit 12

love the one you're with

it included my much-anticipated roommate assignment, typed neatly on a line of its own: Margaret "Margot" Elizabeth Hollinger Graham. I studied her name, along with her address and phone number in Atlanta, Georgia, feeling both intimidated and impressed. All the kids at my public high school had common names like Kim and Jen and Amy. I didn't know anyone with a name like Margot (that silent *T* got to me the most), and I definitely didn't know anyone with two middle names. I was sure that Margot from Atlanta would be one of the beautiful girls featured in Wake Forest's glossy brochures, the ones wearing pearl earrings and Laura Ashley floral print sundresses to football games. (I had only ever worn jeans and hooded sweatshirts to sporting events.) I was certain that she had a serious boyfriend, and imagined her ruthlessly dumping him by semester's end, moving on to one of the lanky, barefooted boys sporting Greek letters and tossing a Frisbee on the quad in those same brochures.

I remember running inside with that letter to tell Suzanne the news. Suzanne was a rising junior at Penn State and well-versed in the ways of roommates. I found her in our room, applying a thick layer of metallic blue eye liner while listening to Bon Jovi's "Wanted Dead or Alive" on her boom box.

I read Margot's full name aloud, and then shared my predictions in an accent right out of *Steel Magnolias*, my best frame of reference for the South. I even cleverly worked in white pillars, Scarlett O'Hara, and servants aplenty. Mostly I was joking, but I also felt a surge of anxiety that I had picked the wrong school. I should have stuck to Pitt or Penn State like the rest of my friends. I was going to be a fish out of water, a Yankee misfit.

I watched Suzanne step away from her full-length mirror, propped at an angle to minimize the freshman-fifteen she hadn't been able to shed, and say, "Your accents *suck*, Ellen. You sound like you're from England, not Atlanta . . . And jeez, how 'bout giving the girl a chance?

WHAT IF - Chapter 4

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equal that. Except perhaps being a six-year-old Yankee and the object of rock-throwing southern children in 1946.

"In the Pentagon, people thought they could say anything they wanted to me. Their contempt frightened me. Now, I know it was how they felt about themselves. But then, I thought it was about me. Besides, Charley, if I hold up an impossible standard I'm usually the first to fall below it."

Casting around for a distraction I suggest, "Let's talk about something less gloomy. Did you see the cascading towers? I've been getting glimpses of a man against a red background. He's very provocative."

"Okay." With an ironic smile he adds, "I think, if I really work at it, I could stand something cheerful and uplifting."

Again we laugh at ourselves. It's the laughter, I realize, that will excavate our common ground. Lay a foundation. Maybe a friendship for his occasional trips to Chicago. For most of my life I've remembered him as living, breathing possibility. We lunged at the world from the same starting block.

At the bottom of the steps I follow Charley's lead. To the south, two rectangular glass block towers face each other across a submerged plaza. They appear gray. Intermittently their infrastructure is exposed.

On the south tower, against a warm, pulsating red background, the smiling man remains constant. The facing wall

Infringement No. 13, Exhibit 13

emily giffin

What if she assumed that you were a steel-town girl with no fashion sense?" She laughed and said, "Oh yeah . . . she'd actually be *right* about that!"

"Very funny," I said, but couldn't help smiling. Ironically, my moody sister was at her most likable when she was ripping on me.

Suzanne kept laughing as she rewound her cassette and belted out, "I walked these streets, a loaded six string on my back!" Then she stopped in mid-lyric and said, "But, seriously, this girl could be, like, a farmer's daughter for all you know. And either way, you might *really* like her."

"Do farmer's daughters typically have *four* names?" I quipped.

"You never know," Suzanne said in her sage big-sister voice. "You just *never* know."

But my suspicions seemed confirmed when, a few days later, I received a letter from Margot written in perfect, adult handwriting on pale pink stationery. Her engraved silver monogram was the elaborate cursive kind, where the *G* of her last name was larger and flanked by the *M* and *H*. I wondered which rich relative she had slighted by overthrowing the *E*. The tone was effusive (eight exclamation points in all) yet also strangely businesslike. She said she couldn't wait to meet me. She had tried to call me several times but hadn't been able to reach me (we didn't have call-waiting or an answering machine, a fact that embarrassed me). She said she would bring a small refrigerator and her stereo (which played CDs; I still hadn't graduated from cassettes). She was hoping we could buy matching comforters. She had found some cute pink and sage green ones by Ralph Lauren, and offered to pick up two for us if I thought this sounded nice. But if I wasn't a pink person, we could always go with yellow and lavender, "a fine combination." Or turquoise and coral, "equally pleasing." She just wasn't wild about primary colors in interior designing, but was open to my suggestions. She told me she "truly" hoped that I would enjoy the

Pittsburgh no longer built on foundation of steel

By Sean D. Hamill
SPECIAL TO THE TRIBUNE

PITTSBURGH—More than 250 years after the last steel mill here closed, replacing that soot-ridden industry with a new technology, education and health care-oriented economy has proved to be easier than changing perceptions.

But when a city is the world's leader in steel production for half a century, as Pittsburgh was, it's no wonder it still finds itself battling the "Steel City" image.

This year on the 250th anniversary of its naming, Pittsburgh is throwing itself a party, celebrating a robot festival that includes a new bicycle trail and renovation of the

economic Point State Park. Instead of the Ohio River, but the celebration also doubles as a national marketing campaign. Pittsburgh hopes finally, definitively, change people's views.

Back in the 1980s we were laboring under the Rust Belt perception, and it was hard to shake," said Bill Flanagan, executive director of Pittsburgh 250, the organization created to throw this celebra-

'New' Pittsburgh at a glance

■ Carnegie-Mellon University's 25-year-old Robotics Institute has a \$53 million budget, with over 300 students, faculty and staff working on more than 100 projects.

■ Just six years ago the region lost 8,800 total jobs, but every year since 2005 it has gained at least 3,700 jobs, including 1,400 so far in 2008.

■ There are 35 colleges and universities in the region, with 140,000 students.

SOURCES: Carnegie Mellon University and Pittsburgh 250

tion. "The goal now is to improve the perception of the region more in line with the reality."

Civic leaders would much rather that Pittsburgh be referred to as the "City of Bridges," or the "City of Colleges," or even "Roboburgh," as The Wall Street Journal dubbed it for its prominence in the development of robotics.

The reality Pittsburgh 250 is promoting is that after los-

ing more than 100,000 steel-related jobs in the 1980s, the region has found its economic legs.

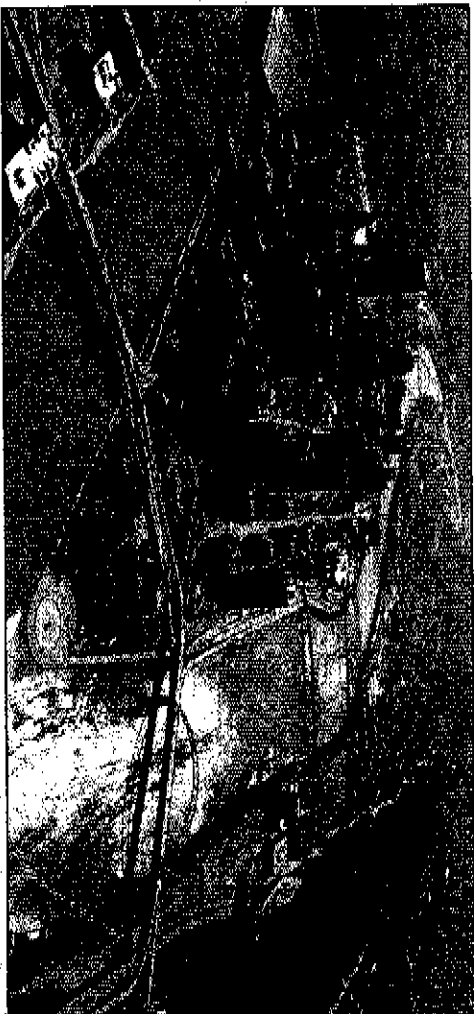
Proud of legacy

Not everyone is happy with the emphasis on the new Pittsburgh at the expense of the city's industrial past.

"They just don't want to highlight that. That's the old, grumpy, sooty image of Pittsburgh," said August Carlino, president and chief executive of the Rivers of Steel Heritage Area, which celebrates the history of the region's steel industry. "To me it's a slap in the face to the incredible history we have here. It's like Detroit saying they're going to celebrate their history and not talk about auto manufacturing."

This isn't the first time the city has undergone a rebirth—officially the first Renaissance was in the 1950s, and Renaissance II in the 1970s—or come back from a catastrophe.

"This city has been hard hit by fire, floods, labor violence, the influenza epidemic, the collapse of major industry, but it always moves on," said historian David McCullough, a Pittsburgh native.



One of the ways Pittsburgh is celebrating its 250th anniversary is with the renovation of Point State Park, where the Allegheny (left) and Monongahela Rivers become the Ohio River.

It took the city more than a decade to get over that 1980s economic hit, perhaps more emotionally than financially, and some opportunities were missed in the interim, civic leaders concede.

But they also love to point out that the region now has more jobs—about 1.2 million—than it did during the steel industry's heyday, and that it wasn't a mistake that Places Rated Almanac last year ranked Pittsburgh as the country's Most Livable City.

"We had this big falloff [in steel], and no one could really see it coming back, but we were in health care, technology, financial services," research, and on and on," said James Rohy, chairman and chief executive of PNC Financial Services Inc., the city's

third-largest company and a Fortune 500 company. "Maybe we made some mistakes, but somewhere, things turned out pretty good."

Population figures

Even so, it might seem overly optimistic when the Census Bureau is reporting that Allegheny County, where Pittsburgh is, lost 5,000 more people last year, and the region also had more deaths than births.

But Rohy and others cite demographic studies that show that the decline in population is projected to ebb—in large part because of a relatively healthy economy. Much of the city's hopes for new jobs come from its large university presence—there are about 140,000 college stu-

dents in the region—particularly Carnegie Mellon University, a private university that is home to cutting-edge computer and robotics research. Indeed, the number of students has grown over the last two decades.

And while locals are generally happy to hear that high-tech jobs are being treated in town, they still want the 250th anniversary celebration to not forget what those new jobs replaced.

"I think the celebration is wonderful; you only go through 250 once," said Jimmy Oretic, 53, a retired county police officer and owner of a downtown deli. "But we're the sons and daughters of steel. You can't say it didn't occur. Why would you want to? It's part of us."

Infringement No. 14, Exhibit 14

love the one you're with

dad was a salesman—selling unglamorous goods like those projectors for mind-numbingly boring filmstrips that lazy teachers made you watch in elementary school. Margot's mother was a former beauty queen from Charleston, with a Babe Paley-esque fashion sensibility and fine, elegant bones. Mine had been a no-nonsense junior-high pre-algebra teacher before she died of lung cancer, even though she had never smoked, the day before my thirteenth birthday.

Margot had two older brothers, both of whom adored her. Her family was the Southern WASP equivalent of the Kennedys, playing touch football on the beach at Sea Island, taking ski trips every winter, and spending occasional Christmases in Europe. My sister and I spent our vacations at the Jersey Shore with our grandparents. We didn't own passports, had never been out of the country, and had only been on an airplane once.

Margot was a cheerleader and former debutante, brimming with the brand of confidence that belongs to wealthy, well-traveled WASPs. I was reserved, slightly neurotic, and despite my strong desire to belong, far more comfortable on the sidelines of things.

Yet despite our differences, we became best friends. And then, years later, in what would make a perfect documentary-style couch story, I fell in love with her brother. The one I just *knew* would be as cute as he was nice.

But a lot of things had to happen before I married Andy and after that letter from Margot arrived in the mail. A *lot* of things. And one of them was Leo. The one I would love before I loved Andy. The one I would grow to hate, but still love, long after we broke up. The one I would finally, *finally* get over. Then see again, years later, in a New York City crosswalk.

WHAT IF - Chapter 2

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"You're way ahead of me, Charley. When I was seven months pregnant, father flew to the Des Moines airport. He invited me to dinner at a restaurant across the street. For the first time since our engagement dinner there the previous year, I ate lobster tail and cherries jubilee. The next morning father threw my luggage in the baggage compartment. I'd already shipped everything else home, when I moved to Des Moines. We flew back to Pennsylvania.

I scan the architect's creative use of color as definition and separation for a way to end the topic. "Ten months later my infant son and I headed for the Pentagon and an editorial assistant position for the Joint Chiefs of Staff."

Charley's tense expression chops the story. A mix of razor-sharp familiarity and awe. As if my story provokes his own. Charley squints at me and frowns.

"Been there, done that." Wrapping fame and fortune about him, he glances at an antique tank watch on his left wrist. He leans into the molded chair.

Again my eyes search his face for understanding and encouragement. "But you had a goal, Charley. I was a girl. It was 1962. First it was topical bibliographies for the Joint Chiefs. Then, after the assassination, I worked for Jacqueline Kennedy in a sub-basement of the Pentagon.

Infringement No. 15, Exhibit 15

love the one you're with

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WHAT IF - Chapter 1

4

On that first Friday night, I crossed the university's sprawling urban campus to the Orientation Week dance. Held in a men's dorm. The campus miniaturized my high school's. I cut through the Student Union to look around. Draped in black marble grandeur, it overwhelmed the "Rec" above the swimming pool dressing rooms. There, we hung out after school and attended dances. Poodles skirts, ballerina flats and boys with D.A.'s. Away from home, that is. Vitalis in their hip pocket.

After climbing the half-flight of stairs to the dorm's multi-purpose room, I did what most new kids do. I stood next to the wall hoping someone would talk to me. It had worked after Miss Daniel's social dancing school. I hoped it would again.

Most of the transfer students were as awkward and shy as I. Unskilled at the daunting task of acquiring new friends. In my head, I sang along to 45's spun by a disk-jockey. Tapping my toes, but not dancing.

In the closing months of the Fifties, the rigid social code forbade girls asking boys. At the age of 12, in white gloves I took my first steps backwards. Miss Caroline Daniels' School of Social Dancing for young ladies and gentlemen. Afterward, while I waited for my dad, five boys would crowd into the booth as I drank a chocolate soda. From David I received my first ring. A signet with the Boy Scout crest. Seven years later I clung to that assurance.

Infringement No. 16, Exhibit 16

love the one you're with

not to answer. But, in refusing to answer it outright, you're afraid you'll look defensive or rude. Later, of course, you replay the exchange and think of the perfect, politely evasive response. *Only my scale knows the truth . . . Never enough money, I'm afraid.* Or in this instance: *Out and about.*

But, there in the moment, I always clumsily blurt out the answer. My true weight. My salary down to the dollar. Or, in this case, the name of the diner where I am having coffee on a cold, rainy day.

Oh well, I think, once it's off my tongue. After all, it is probably better to be straightforward. Being evasive could translate as an attempt to be flirtatious or coy: *Guess where I am. Come find me, why don't you.*

Still, Leo answers quickly, knowingly. "Right," he says, as if this diner had been a special hangout of ours. Or, worse, as if I were just *that* predictable. Then he asks if I'm alone.

None of your business, I want to say, but instead my mouth opens and I serve up a plain, simple, inviting yes. Like a single red checker sidling up to double-decker black ones, just waiting to be jumped.

Sure enough, Leo says, "Good. I'm coming over. Don't move." Then he hangs up before I can respond. I flip my phone shut and panic. My first instinct is to simply get up and walk out. But I command myself not to be a coward. I can handle seeing him again. I am a mature, stable, *happily wed* woman. So what is the big deal about seeing an ex-boyfriend, having a little polite conversation? Besides, if I were to flee, wouldn't I be playing a game that I have no business playing? A game that was lost a long time ago?

So instead I set about eating my bagel. It is tasteless—only texture—but I keep chewing and swallowing, remembering to sip my coffee along the way. I do not allow myself another glance in the mirror. I will not apply a fresh coat of lip gloss or even check my teeth for

WHAT IF - Chapter 26

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worrying about something that will never happen. Now, all I have to do is figure out what will."

Three minutes and it's already over.

"Excuse me?"

"It's okay, Jennifer. I'm sure Mr. Walker warned you that I am somewhat unpredictable."

"I believe he used the word impossible."

"How gallant of him to understate the case." I scan the concourse ahead. Hoping to encounter reality of any kind.

By the time I reach the hotel room, "the issue" is fully formed. I plan to tell Charley I feared our friendship would work out like a previous one. Charley moves people around like checkers. Jumping some, kinging others with the unfortunates. Then clearing off the board.

Finally I get it. I'm supposed to be so awed by the world of Charley Walker, I'll happily fold in my plans, hopes and dreams just to coexist with it. Must have been very seductive to Christine and her predecessors.

Once before someone tried to impress me with his money and his power. I'm still trying to shake him.

You're way out of your league, Charley.

My hope for the weekend now is to avoid as much ugliness as possible. The first item on my list is going back to the lobby

Infringement No. 17, Exhibit 17

food. Let there be a poppy seed wedged between my front teeth. I have nothing to prove to him. And nothing to prove to myself.

That is my last thought before I see his face through the rain-streaked door of the diner. My heart starts pounding again and my leg bounces up and down. I think how nice it would be to have one of Andy's beta blockers—harmless pills he takes before court appearances to keep his mouth from getting dry, his voice from shaking. He insists that he's not really nervous, but that somehow his physical symptoms indicate otherwise. I tell myself that I am not nervous either. My body is simply betraying my head and heart. It happens.

I watch Leo give his umbrella a quick shake as he glances around the diner, past Annie who is mopping the floor underneath a booth. He doesn't see me at first, and for some reason, this gives me a vague sense of power.

But that is gone in an instant when his eyes find mine. He gives me a small, quick smile, then lowers his head and strides toward me. Seconds later, he is standing beside my table, shedding his black leather coat that I remember well. My stomach rises, falls, rises. I am fearful that he will bend down and kiss my cheek. But no, that is not his style. Andy kisses my cheek. Leo never did. True to his old form, he skips niceties and slides into the booth across from me, shaking his head, once, twice. He looks exactly as I remember, but a little older, and somehow bolder and more vivid—his hair darker, his build bulkier, his jaw stronger. A stark contrast to Andy's fine features, long limbs, light coloring. Andy is easier on the eyes, I think. Andy is easier *period*. The same way a walk on the beach is easy. A Sunday nap. A round peg in a round hole.

"Ellen Dempsey," he finally says, looking into my eyes.

I couldn't have scripted a better opening line. I embrace it, staring back into his brown eyes, banded by black rims. "Ellen *Graham*," I announce proudly.

WHAT IF - Chapter 15

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Parents, grade school, playmates. Like the rest of us. It's mind-boggling.

Could there be a perfectly ordinary little girl in white gloves just learning to dance backwards. Perhaps there's a rationale for Charley's interest in such an ordinary, middle-aged woman. With folks regularly living to be 100, 64 is no longer old.

Was Charley just a regular kid like any in my high school graduating class? Albeit on the cusp of greatness. Just an ordinary kid? How did Charley get from there to rock legend? Much of that history is unknown to me. Much by preference.

Like the ancestors stashed in my DNA, I mount the Drake's regal stairway and survey the holiday-dressed lobby. Under the enormous crystal chandelier, there's only one seating area to await Charley's appearance. It's tucked under the Palm Court balcony. I'm far enough from the front desk to observe him surreptitiously for a few moments. If he doesn't look around for me.

In place of the right-hand seating area is a winter tableaux. I cross the lobby to watch a miniature train skirt the white picket fence. Small children mirror my excitement as they attempt to climb it. Each miniaturized animation vies for my attention.

Infringement No. 18, Exhibit 18

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WHAT IF - Chapter 1

3

His gaunt face is scarred by drugs, the burdens of fame and perhaps ancient trauma. He's not much taller than I. His body seems to abhor fat. Perhaps it's the smoking. I acquired an extra 20 pounds, when I quit.

His eyes are as brown as a tae kwon do belt. Their intensity as integral to his personality as a string to a top. Ready to spring in a denim jacket, faded jeans and western boots. His short hair is steel gray. He's clean shaven. Accentuating the ravages of time, celebrity and drug abuse.

As bygone as 1959 is the college freshman, chunky with middle-class prosperity, strumming a guitar and singing outside a men's dormitory. And the slender blue-eyed blonde.

For students transferring to the university, from which my father and uncle graduated, the sock hop died of boredom. With rarefied SATs but a lower-third class ranking, it was good to be a legacy. Sputnik went up one prior October afternoon in physics class. Boosting the lure of science. The teacher tolerated us two girls for sweaters and blonde relief. I aspired to chemical engineering. Like my uncle and my dad.

We were the last of the Traditionals. Baby Boomers were just entering high school. The last of them, like my eldest son, was waiting to be born.

Infringement No. 19, Exhibit 19

e m i l y g i f f i n

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WHAT IF

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CHAPTER 2 - FINALLY, THE COFFEE DATE

Are you really sure you want to do this, Bonnie?

Self-consciously I smile and plunge ahead. "I used to work in the building, Charley. There's a cafeteria in the basement." In midafternoon, it will be deserted. No gawkers, no photos. I want to vault over the marble wall and ski down the brass hand rails.

Instead, I turned down the wide confetti marble steps into the uncharted. A rock star and a paralegal. Once again, too naive to wonder what I'm getting into.

In the back corner, there's a table behind a partial wall. We slip into slate gray plastic chairs, tucked under a white Formica table. Facing the back wall, in a fluid motion Charley slides his denim jacket over the chair back. His jade green cotton pullover makes his eyes sing. Once more I stand. Removing my lined trench coat, I fold it lengthwise and drape it over the chair next to the window into the main dining room. With nary a fan in sight.

Infringement No. 20, Exhibit 20

In any event, I have just stated my married name to Leo. A not-so-small triumph.

Leo raises his chin, pushes out his lower lip, and says, "Oh? Congratulations."

"Thanks." I am jubilant, buoyant—and then slightly ashamed for feeling so victorious. *The opposite of love is indifference*, I silently recite.

"So. Who's the lucky guy?" he asks.

"You remember Margot?"

"Sure, I do."

"I married her brother. I think you met him?" I say vaguely, even though I know for an absolute fact that Leo and Andy met once, at a bar in the East Village. At the time, it was only a brief, meaningless encounter between my boyfriend and my best friend's brother. An exchange of *How ya doin?* . . . *Nice to meet you, man*. Maybe a handshake. Standard guy stuff. But years later, after Leo and I had long broken up, and Andy and I had begun to date, I would deconstruct that moment in exhausting detail, as any woman would.

A flicker of recognition crosses Leo's face now. "*That* guy? Really? The law student?"

I bristle at his *that* guy, his faint tone of derision, wondering what Leo is thinking now. Had he gleaned something from their brief meeting? Is he simply expressing his disdain for lawyers? Had I, at any point, discussed Andy in a way to give him ammunition now? No. That was impossible. There was—and *is*—nothing negative or controversial to say about Andy. Andy has no enemies. Everyone loves him.

I look back into Leo's eyes, telling myself not to get defensive—or react at all. Leo's opinion no longer matters. Instead I nod placidly, confidently. "Yes. Margot's brother," I repeat.

"Well. That worked out *perfectly*," Leo says with what I am pretty sure is sarcasm.

"Yes," I say, serving up a smug smile. "It *sure* did."

WHAT IF - Chapter 1

2

luxuriate in the sunshine on my way to training in a computer database. LexisNexis. It will expand my skills as an intellectual property paralegal. Patents, trademarks, trade secrets, copyrights.

At the training's end, I turn the corner into a 22nd floor marble elevator corridor. Smoothing the skirt of my black and white print sheath, I'm not eager to return to the office. I'd rather click the heels of my black patent leather pumps. But work awaits.

The gray glass- and honey marble-paneled elevators ferry bankers, economists, attorneys to the first floor of Marshall Field, Jr.'s 45-story office building.

Marshall Field initiated its construction to employ tradesmen idled by the Great Depression. He chose only the finest materials. Now the LaSalle Bank Building, the Art Deco design included a penthouse for his mistress. Today it's the Chicago office of an Indianapolis intellectual property law firm.

Framed in green marble, eight pairs of black-lacquered doors striped in bottle green await. The far left pair slides open. I step inside.

The animated conversation stops abruptly. Curious, I glance at the four men. Charley Walker is all I see. I knew him in college. Now, he's a rock 'n' roll legend! Everything else vanishes.

Infringement No. 21, Exhibit 21

"One big happy family," he says.

Now I am sure of his tone, and I feel myself tense, a familiar rage rising. A brand of rage that only Leo has ever inspired in me. I look down at my wallet with every intention of dropping a few bills on the table, standing and stalking off. But then I hear my name as a featherweight question and feel his hand covering mine, swallowing it whole. I had forgotten how large his hands were. How hot they always were, even in the dead of winter. I fight to move my hand away from his, but can't. *At least he has my right one,* I think. My left hand is clenched under the table, still safe. I rub my wedding band with my thumb and catch my breath.

"I've missed you," Leo says.

I look at him, shocked, speechless. He *misses* me? It can't be the truth—but then again, Leo isn't about lies. He's about the cold, hard truth. Like it or leave it.

He continues, "I'm sorry, Ellen."

"Sorry for what?" I ask, thinking that there are two kinds of *sorry*. There is the sorry imbued with regret. And a pure sorry. The kind that is merely asking for forgiveness, nothing more.

"Everything," Leo says. "*Everything.*"

That about covers it, I think. I uncurl my left fingers and look down at my ring. There is a huge lump in my throat, and my voice comes out in a whisper. "It's water under the bridge," I say. And I mean it. It *is* water under the bridge.

"I know," Leo says. "But I'm still sorry."

I blink and look away, but can't will myself to move my hand. "Don't be," I say. "Everything is fine."

Leo's thick eyebrows, so neatly shaped that I once teasingly accused him of plucking them, rise in tandem. "Fine?"

I know what he is implying so I quickly say, "More than fine. Everything is *great*. Exactly as it should be."

WHAT IF - Chapter 6

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Charley yanks a slim leather wallet from his denim jacket. "All right. Here's fifty. That should cover the meals, the tip and your bus ride home. I'm outta here."

Charley pushes the table, pinning me to the booth. It's frustration, not a threat. If Charley Walker were violent, he'd punch me.

I push back the table and turn. Charley's half way to the front entrance. With conflicted feelings I watch him. So does nearly everyone else. None are remotely interested in why he's there. I cover the check with the fifty and leave.

The rest of the afternoon isn't much fun. The bitter aftertaste sticks in my throat. Why the power struggle? Why can't I let him have his way?

Because, Bonnie, you've done that before. Want to check the debris?

I plow my frustration into being useful. Unable to release my anger at Charley, sleep is slow in coming. Perhaps the anger and frustration conceal anxiety. Prior to tomorrow's continuing education course I have a doctor's appointment. A referral from my internist.

The appointment with the urogynecologist goes downhill faster and further than lunch with Charley. Things are not going

Infringement No. 22, Exhibit 22

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WHAT IF - Chapter 12

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skilled and unionized. For four months they'll live like kings. Their own homes, plenty of food, la familia. Until 42 inches of northern Illinois frost is out of the ground. Their paths of ingress and egress are as concrete as the expressway on which Charley rode to my building.

Before Charley entered my life again, I was content. I had family, friends and a good job. My health was excellent. I walked three to twelve miles a day, exercised and carried 35 pounds of groceries a mile and a quarter in my backpack.

Now, I have no job and need an anatomical repair. Except for Charley, my life is still fairly peaceful. I cherish my family and friends.

Charley's friendship stretches me, my relationship skills. Last Tuesday laid a huge burden to rest. The years with my second husband buried themselves with the miraculous cure of his West Nile Virus. The conversation moves on to our children.

Through trips to the emergency room, and the wide, wide world, very interesting pets, backyard experiments, comics collections, science fairs and moments of heroism, my children come alive for him. He matches me story for story. We laugh until the tears come. At wee wisdom and addicted parents we shake our heads.

Children are our fourth commonality. After a difficult adolescence, college and addiction. Charley covers my hand with

WHAT IF - Chapter 12

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his own. Finally, we're comfortable friends. Adults. Each of us has our own commitments. Yet we've pledged to help each other along the path. Ahead, there are rocks, a torrent to ford, a steep embankment. But a safe journey is assured.

I'm startled to see Tom passing the storefront windows. Charley smiles at me. He feels no imperative. Only I am concerned about Tom's time. Charley is as mellow as I've ever known him. More so, I suspect, than many friends and relatives have ever seen. With elbows on the table, Charley leans his chin into one hand and holds mine with the other. We're silent. Nothing is more important than this moment. And each other.

He'll have to jump high to kick start the kinetic energy his fans expect. Will they, I wonder, ever allow it to diminish.

Reluctantly we rise from the 1950's kitchen set. It's been another glimpse of possibility. For us, the restaurant has become more desirable than any four-star in the Near North or on the Gold Coast.

We agree to try again tomorrow afternoon. Charley will pick me up after Mass and the prayer group. Our hands touch again. There's no electricity, only tranquility. We're both content.

"I'm going back to Los Angeles on Monday, Bonnie. Will you come out?"

"Only if Christine extends an invitation."

Infringement No. 23, Exhibit 23

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Now I am sure of his tone, and I feel myself tense, a familiar rage rising. A brand of rage that only Leo has ever inspired in me. I look down at my wallet with every intention of dropping a few bills on the table, standing and stalking off. But then I hear my name as a featherweight question and feel his hand covering mine, swallowing it whole. I had forgotten how large his hands were. How hot they always were, even in the dead of winter. I fight to move my hand away from his, but can't. *At least he has my right one*, I think. My left hand is clenched under the table, still safe. I rub my wedding band with my thumb and catch my breath.

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WHAT IF - Chapter 2

24

I've been here before. Placing my palms on the table, I rise. "I've finished my coffee. My office will wonder where I am." How many other opportunities have been smothered in their cribs?

Charley grabs my hand. I resume my seat. Embarrassed, he drops it. "We're not doing this twice, Bonnie. You're probably the most honest woman I've ever met. Even when you're trying to run me off."

His face clouds. The creases in his brow sharpen. Whatever it is, no amount of smoothing and cooing will ever erase that memory. Perhaps there's more than one. Perhaps all those angry-at-women songs have a legitimate source.

"I'm sorry, Charley. I didn't mean to upset you."

"What makes you think I'm upset?" Two clenched fists hide beneath the tabletop.

"The look on your face doesn't seem to be about me."

Charley glances at me sadly, then his eyes fly away. "If there's a fight, it's not with you."

"I can't make things right, Charley, for a long-ago girl, heartless, callous and cold."

"You knew her?"

"Let's say I call her the mean girl. Those first weeks in Sherman, after I first saw you, she tried to establish her rep by nearly destroying me. If we can't shelve the old hurts and live

Infringement No. 24, Exhibit 24

"One big happy family," he says.

Now I am sure of his tone, and I feel myself tense, a familiar rage rising. A brand of rage that only Leo has ever inspired in me. I look down at my wallet with every intention of dropping a few bills on the table, standing and stalking off. But then I hear my name as a featherweight question and feel his hand covering mine, swallowing it whole. I had forgotten how large his hands were. How hot they always were, even in the dead of winter. I fight to move my hand away from his, but can't. *At least he has my right one*, I think. My left hand is clenched under the table, still safe. I rub my wedding band with my thumb and catch my breath.

"I've missed you," Leo says.

I look at him, shocked, speechless. He *misses* me? It can't be the truth—but then again, Leo isn't about lies. He's about the cold, hard truth. Like it or leave it.

He continues, "I'm sorry, Ellen."

"Sorry for what?" I ask, thinking that there are two kinds of *sorry*. There is the sorry imbued with regret. And a pure sorry. The kind that is merely asking for forgiveness, nothing more.

"Everything," Leo says. "*Everything*."

That about covers it, I think. I uncurl my left fingers and look down at my ring. There is a huge lump in my throat, and my voice comes out in a whisper. "It's water under the bridge," I say. And I mean it. It *is* water under the bridge.

"I know," Leo says. "But I'm still sorry."

I blink and look away, but can't will myself to move my hand. "Don't be," I say. "Everything is fine."

Leo's thick eyebrows, so neatly shaped that I once teasingly accused him of plucking them, rise in tandem. "Fine?"

I know what he is implying so I quickly say, "More than fine. Everything is *great*. Exactly as it should be."

Charley's eyes light up. I regret my pandering. How many times will this moment repeat itself, if we become friends?

Bonnie, the rescuer.

Rescuing is an art I know well. I've been practicing all my life.

At the light for Madison Street we pause. Ahead on the left are the Cultural Center and the trapezoidal top of 150 North Michigan. As never before, I realize what a challenge it is to befriend a rock star. Anyone accustomed to that much personal power. Our common beginnings and addiction are my only credibility.

Crossing Wacker Drive, we approach the limestone guard houses at the south end of the Michigan Avenue bridge over the Chicago River. At the break separating the two halves of the drawbridge, Charley stops at the gray and rusted balustrade. He attempts to jam the tip of his boot between the balusters. Morosely he stares into its dark, churning water.

What could possibly have prompted this gloom of night? Where did the face filled with tranquility, approval, affection take Charley? Wherever, it wasn't much fun.

File Date: May 30, 2008

Case No: 08cv3129

ATTACHMENT # 1

EXHIBIT 25 through 50

TAB (DESCRIPTION) _____

Infringement No. 25, Exhibit 25

Emily giffin

His expression changes to playful, the way he used to look when I loved him the most and believed that things would work out between us. My heart twists in knots.

"So, Ellen *Graham*, in light of how *fine* everything has turned out to be, what do you say we give the friendship thing a try? Think we could do that?"

I tally all the reasons why not, all the ways it could hurt. Yet I watch myself shrug coolly and hear myself murmur, "Why not?"

Then I slide my hand out from under his a moment too late.

equal that. Except perhaps being a six-year-old Yankee and the object of rock-throwing southern children in 1946.

"In the Pentagon, people thought they could say anything they wanted to me. Their contempt frightened me. Now, I know it was how they felt about themselves. But then, I thought it was about me. Besides, Charley, if I hold up an impossible standard I'm usually the first to fall below it."

Casting around for a distraction I suggest, "Let's talk about something less gloomy. Did you see the cascading towers? I've been getting glimpses of a man against a red background. He's very provocative."

"Okay." With an ironic smile he adds, "I think, if I really work at it, I could stand something cheerful and uplifting."

Again we laugh at ourselves. It's the laughter, I realize, that will excavate our common ground. Lay a foundation. Maybe a friendship for his occasional trips to Chicago. For most of my life I've remembered him as living, breathing possibility. We lunged at the world from the same starting block.

At the bottom of the steps I follow Charley's lead. To the south, two rectangular glass block towers face each other across a submerged plaza. They appear gray. Intermittently their infrastructure is exposed.

On the south tower, against a warm, pulsating red background, the smiling man remains constant. The facing wall

Infringement No. 26, Exhibit 26

four

I leave the diner in a daze, feeling some combination of melancholy, resentment, and anticipation. It is an odd and unsettling mix of emotions exacerbated by the rain, now coming down in icy, diagonal sheets. I briefly consider taking the long walk home, almost *wishing* to be cold and wet and miserable, but I think better of it. There is nothing to wallow in, no reason to be upset or even introspective.

So I head for the subway instead, striding along the slick sidewalks with purpose. Good, bad, and even a few mundane memories of Leo swirl around in my head, but I refuse to settle on any of them. *Ancient history*, I mutter aloud as I take the stairs underground at Union Station. Down on the platform, I sidestep puddles and cast about for distractions. I buy a pack of Butterscotch Life Savers at a newsstand, skim the tabloid headlines, eavesdrop on a contentious conversation about politics, and watch a rat scurry along the tracks below. Anything

WHAT IF - Chapter 4

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I walk around to face him. "Charley, you're talking to an image on a tower like it hears you."

"I'll bet it can. Who builds anything these days without surveillance cameras? Microphones? Just waiting for some hapless Let's go."

I glance at the smiling, peaceful face and irresistible eyes. The compelling expression is hard to leave. It's the most fascinating face I've ever seen. I just want to stay and gaze at him.

At whom is Charley so mad? I glance to see if the serene man has the power to ruin a mood, an afternoon, a fledgling friendship. No. Everything is still at peace. While on the opposite tower the faces recycle.

Walking on egg shells I know. Perfected long before dancing backwards at Miss Caroline Daniel's. I've learned to hold my breath. To wait for a foul mood to pass. Or not pass. I search for a distraction, as with a young child stuck in a tantrum.

"Would you like to walk up Michigan Avenue, Charley? There's a great hotel restaurant down the hill from the draw bridge over the Chicago River. The dining room has an east wall of glass overlooking Michigan Avenue.

"It's early enough. They may have an open table. Although, for you they'd undoubtedly empty a table. We can review the parading humanity.

Infringement No. 27, Exhibit 27

to avoid rewinding and replaying my exchange with Leo. If the floodgates open, I will obsessively analyze all that was said, as well as the stubborn subtext that was always so much a part of our time together. *What did he mean by that? Why didn't he say this? Does he still have feelings for me? Is he married now, too? If so, why didn't he say so?*

I tell myself that none of it matters now. It hasn't mattered for a long time.

My train finally pulls into the station. It is rush hour so all the cars are packed, standing room only. I crush my way into one, beside a mother and her elementary-age daughter. At least I think it is her daughter—they have the same pointy nose and chin. The little girl is wearing a double-breasted navy coat with gold anchor buttons. They are discussing what to have for supper.

"Macaroni-and-cheese and garlic toast?" the daughter suggests, looking hopeful.

I wait for a "We just had that last night" sort of parental objection, but the mother only smiles and says, "Well, that sounds perfect for a rainy day." Her voice is as warm and soothing as the carbohydrates they will share.

I think of my own mother as I do several times a day, often triggered by far less obvious stimuli than the mother-daughter pair beside me. My mind drifts to a recurrent motif—what would our adult relationship have felt like? Would I distrust her opinion when it came to matters of the heart, intentionally rebelling against what she wanted for me? Or would we have been as close as Margot and her mother, talking several times a day? I like to think that we would have been confidantes. Perhaps not sharing-clothing-and-shoes, giggly close (my mother was too no-nonsense for that), but emotionally connected enough to tell her about Leo and the diner. His hand on mine. The way I feel now.

I cobble together the things she might have said, reassuring tidbits

WHAT IF - Chapter 2

26

"Let's walk over to my office. I need to let my boss know I'm taking the rest of the afternoon off. It will be the rest of the afternoon, won't it?" Churning excitement and dread are inexplicable companions. But not cautionary.

"I hope so. I'm catching a plane back to L.A. in the morning. I've been invited to dinner and a theater opening tonight. Some experimental place on the North Side. She's supposed to be an up-and-coming playwright."

My stomach tightens. "Lincoln Avenue perhaps?"

"I'm not sure. Now, it doesn't matter." It relaxes.

Quickly we cover the three blocks to my building. The blonde and beige marble theme with raspberry thrown echos through my building as well. From the front lobby, I survey another block-long hall and glance back at Charley.

He's pulled out his cell phone. "I'll call my friends while you go upstairs. Let's meet here in 10 minutes."

"Been there, Charley."

He grabs my hand again. "I'm too old for that shit, Bonnie. I'll be here." He twirls me toward the back of the building.

Infringement No. 28, Exhibit 28

love the one you're with

like: *I'm so glad you found Andy. He is like the son I never had. I never cared much for that other boy.*

All too predictable, I think, digging deep for more. I close my eyes, picturing her *before* she got sick, something I haven't done lately. I can see her almond-shaped hazel eyes, similar to mine, but turning down slightly at the corners—bedroom eyes, my father always called them. I picture her broad, smooth forehead. Her thick, glossy hair, always cut in the same simple bob that transcended trends or era, just long enough to pull back in a squat ponytail when she did housework or gardening. The slight gap between her front teeth and the way she unconsciously covered it with her hand when she laughed really hard.

Then I conjure her stern but fair gaze—befitting a math teacher at a rough public school—and hear these words uttered in her heavy Pittsburgh dialect: *Listen here, Ellie. Don't go giving this encounter any crazy meaning like you did with him the first time around. It doesn't mean a thing. Not a thing. Sometimes, in life, there is no meaning at all.*

I want to listen to my mother now. I want to believe that she is giving me guidance from some faraway place, but I still feel myself caving, succumbing to the memory of that first chance encounter at the New York State Supreme Court on Centre Street when Leo and I were both summoned to jury duty on the same Tuesday in October. Prisoners trapped together in a windowless room with bad acoustics, metal folding chairs, and at least one fellow citizen who had forgotten to apply deodorant. It was all so random, and as I foolishly believed for a long time, romantic *because* of the randomness.

I was only twenty-three years old, but felt much older due to the vague fear and disillusionment that comes with leaving the safety net of college and abruptly joining the real-world ranks, particularly when you have no focus or plan, money or mother. Margot and I had just moved to New York the summer before, right after we graduated,

For the first time since our eyes locked in the elevator, I wonder if I'll ever see him again? If he will value our friendship?

We pause at the band shell and trellis thrusting out over red ribbons tying up a lawn of green. An electronic latticework of sound. Will I ever possess Gehry's courage? Directing metal workers who erected the "ugly duckling." His sustained faith casts its spell before us.

Inspired by Gehry's achievement, I imagine a picnic basket among friends. Listening to Mozart. Another warm and sultry night? With Charley? With a different beginning?

The conundrum falls away, melting into the blanched boldness and bravado of the Chase Promenade.

"Welcome to Millennium Park, Charley. Where have you been?"

Charley's face snaps shut. His flinty brown eyes narrow. Someone else has asked this question before. For no good purpose. Through the denim jacket I touch his forearm. He flinches. Then, I feel him relax. A deliberate meditative release.

He turns. His smile on reserve. Neither of us wants to crack the tomes of the past. The highly reflective bean-shaped structure, "Cloud Gate," draws us forward.

Infringement No. 29, Exhibit 29

love the one you're with

like: *I'm so glad you found Andy. He is like the son I never had. I never cared much for that other boy.*

All too predictable, I think, digging deep for more. I close my eyes, picturing her *before* she got sick, something I haven't done lately. I can see her almond-shaped hazel eyes, similar to mine, but turning down slightly at the corners—bedroom eyes, my father always called them. I picture her broad, smooth forehead. Her thick, glossy hair, always cut in the same simple bob that transcended trends or era, just long enough to pull back in a squat ponytail when she did housework or gardening. The slight gap between her front teeth and the way she unconsciously covered it with her hand when she laughed really hard.

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WHAT IF

1

CHAPTER 1 - THE ENCOUNTER

On one of Chicago's truly last beautiful days of fall, I ride the Green Line to the Loop. An idyllic reprieve from the 30° weather of the past two weeks, it's a fitting and proper farewell. The summer was well-loved. In the coming snow and bitter cold, it will be well-remembered.

In the Chicago suburb where I live, elm trees and lindens are already bare or nearly so. Rakes and blowers animate leaves as summer breezes once had. We've already had a killing frost. Only the hardiest chrysanthemums cling to their color. Next week or the week after they, too, will turn a russet gold.

Halloween is everywhere. Ghosts dance near the ceilings of Victorian porches. An eight-foot tall Frankenstein warns future trick-or-treaters. Little hands have spread webs in colors no spider ever spun.

Absolutely everyone looks for and finds a reason to be outside. What a glorious day. Sunshine gilds everything. God's gift to those of us who will endure the approaching winter. I

Infringement No. 30, Exhibit 30

photography field. I applied for every assistant's position I could find—including a few for cheesy wedding photographers on Long Island. But without any formal training, I was once again turned down by everyone and ended up taking a minimum-wage position as a film processor in a small, boutique-y photo lab with ancient equipment. I had to start somewhere, I told myself, as I took the bus to dreary lower Second Avenue on my first day and unpacked my peanut-butter-and-jelly sandwich in a drafty back room that smelled of cigarettes and bleach.

But, as it turned out, it was the ideal first job thanks to Quynh, the Vietnamese girl who was married to the owner's son. Quynh spoke little English, but was a pure genius with color and taught me more about custom printing than I could have learned in any class (and more than I eventually *did* learn when I finally went to photography school). Every day I watched Quynh's thin, nimble fingers feed the film and twist the knobs on the machines, adding a little more yellow, a little less blue to yield the most perfect prints, while I fell more in love with my fledgling chosen profession.

So that's where I was when I got that infamous jury summons. Although still quite poor, I was fulfilled, happy, and hopeful, and none too anxious to put my work (and pay) on hold for jury duty. Margot suggested that I ask Andy, who had just started his third year of law school at Columbia, for his advice on how to get excused. So I gave him a call, and he assured me it would be a cinch.

"You can't lie on voir dire," he said as I listened, impressed with the Latin term. "But you can exaggerate your bias. Just imply that you hate lawyers, don't trust cops, or resent the wealthy. Whatever it seems they're looking for."

"Well," I said. "I *do* resent the wealthy."

Andy chuckled. He could tell I was kidding, but he also must have known from Margot how broke I always was. He cleared his

WHAT IF - Chapter 1

8

Has Charley just purchased something? An interest in a sports team? A music-related company? Is he producing a Chicago-based movie? Fear crowds out curiosity.

At the lobby, I lunge from the elevator. Anxious to flee what I feel woefully inept to confront. For decades I've imagined his life in Los Angeles. A city which 28 years ago I decided would never be home for me.

Nearly running, I stride toward the building's La Salle Street doors.

From behind comes a command. "Bonnie, please wait."

I stop cold. Charley does remember my name. I don't dare turn around. I'm paralyzed by disbelief and something I can't quite identify. Perhaps don't want to. I have a sane and happy life. Boring perhaps, but sane and happy.

Charley steps between me and the exit to my little life. Where there are no big deals. Predictable perhaps, but incredibly less painful.

Fear steals my breath. Charley has never done anything simple or easy. Notorious is his ferocity. Friend or foe. I'd would be a picnic in a hurricane. Raging 140 miles-an-hour winds, then the sudden tranquility of the eye. Then torrential rain blotting out everything.

Infringement No. 31, Exhibit 31

love the one you're with

throat, and continued earnestly, "Impetuous body language can do the trick, too. Look pissed off and put out to be there. Like you have more important things to be doing. Keep your arms crossed. Neither side wants an impatient juror."

I said I would definitely take his advice. Anything to get back to my regularly scheduled life—and my much-needed paycheck.

But all of that changed in a flash when I saw Leo for the first time, a moment frozen in my mind forever.

It was still early morning, but I had exhausted my stash of magazines in my tote bag, checked my watch a hundred times, and called Quynh from a pay phone to give her a status report, when I sat back in my chair, scanned the jury room, and spotted him sitting a few rows diagonally in front of me. He was reading the back page of the *New York Post* as he nodded to the beat of a song on his Discman, and I suddenly had a crazy urge to know what he was listening to. For some reason, I imagined that it was the Steve Miller Band or Crosby, Stills and Nash. Something manly and comfortable to go with his faded Levi's, a navy fleece pullover, and black, loosely tied Adidas sneakers. As he glanced up at the wall clock, I admired his profile. His distinctive nose (Margot would later dub it defiant), high cheekbones, and the way his wavy, dark hair curled against the smooth olive skin of his neck. He wasn't particularly big or tall, but he had a broad back and shoulders that looked so strong. I envisioned him jumping rope in a bare-bones, stripped-down gym or running up the courthouse steps, Rocky style, and decided that he was more sexy than handsome. As in, the "I bet he'd be great in bed" definition of sexy. The thought took me by surprise as I wasn't accustomed to assessing strange men in such a strictly physical way. Like most women, I was about getting to know someone first—attraction based on personality. Moreover, I wasn't even that into sex. *Yet.*

As if reading my mind, Leo turned in his seat and shot me a wry,

WHAT IF - Chapter 12

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skilled and unionized. For four months they'll live like kings. Their own homes, plenty of food, la familia. Until 42 inches of northern Illinois frost is out of the ground. Their paths of ingress and egress are as concrete as the expressway on which Charley rode to my building.

Before Charley entered my life again, I was content. I had family, friends and a good job. My health was excellent. I walked three to twelve miles a day, exercised and carried 35 pounds of groceries a mile and a quarter in my backpack.

Now, I have no job and need an anatomical repair. Except for Charley, my life is still fairly peaceful. I cherish my family and friends.

Charley's friendship stretches me, my relationship skills. Last Tuesday laid a huge burden to rest. The years with my second husband buried themselves with the miraculous cure of his West Nile Virus. The conversation moves on to our children.

Through trips to the emergency room, and the wide, wide world, very interesting pets, backyard experiments, comics collections, science fairs and moments of heroism, my children come alive for him. He matches me story for story. We laugh until the tears come. At wee wisdom and addicted parents we shake our heads.

Children are our fourth commonality. After a difficult adolescence, college and addiction. Charley covers my hand with

Infringement No. 32, Exhibit 32

love the one you're with

throat, and continued earnestly, "Impetuous body language can do the trick, too. Look pissed off and put out to be there. Like you have more important things to be doing. Keep your arms crossed. Neither side wants an impatient juror."

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Relationships must have been an enigma for Jacqueline Kennedy as well. She, if anyone, suffered under the old rules, the old standards. We can only guess how she felt about Jack's infidelity. Certainly it wasn't much different than Charley's, perhaps for similar reasons. Except Jack Kennedy had the additional advantage of being handsome. Charley has no such advantage. He only has fame, fortune and the ability to rip my guts out if I let him.

Jacqueline Kennedy kept her own counsel. As the culture of the time required. She had a good life. The rigid social codex said that's all she was entitled to. Onassis thought the most desired woman in the world was what his wealth and position earned him. What he got instead was "The Widow." Because there was a human being inside to whom he couldn't or wouldn't relate. She was a woman, confident, skilled and independent. Not a trophy.

Perhaps Aristotle Onassis, more than any other, demonstrates the schism between those acculturated in the old ways and those growing up with more egalitarian models.

Surely Maurice Tempelsman provided Jacqueline with the equality and respect she'd been deprived of. I doubt many people think of her as a person. We've all been seduced by the myth. Her legend. I doubt, if asked, that would have been her choice.

Infringement No. 33, Exhibit 33

Then I stated the obvious—that we'd be in big trouble if Chester, our bailiff babysitter, busted us talking on the phone. And about the case, no less.

"Yes, we would," Leo said. Then he added very slowly and deliberately, "And I guess we'd be in even more hot water if I paid you a visit right now, huh?"

"What's that?" I said, even though I had heard him, loud and clear.

"Can I come see you?" he said again, his voice slightly suggestive.

I sat up abruptly, smoothing the sheets around me. "What about Chester?" I said, feeling the good kind of weak.

"He went to bed. The halls are clear. I already checked."

"Really?" I said. I could think of nothing else to say.

"Yes. *Really* . . . So?"

"So?" I echoed.

"So can I come see you? I just . . . want to talk. Face to face. Alone."

I didn't really believe that was all he wanted—and a large measure of me hoped that it wasn't. I thought of how much trouble we'd be in if we got caught together in a jury-duty booty call, and that we owed it to the defendant to follow the rules—that our reckless behavior could result in a mistrial. I thought of how unsexy my Steelers T-shirt and cotton panties were and that I had nothing nicer in my hastily packed suitcase. I thought about the conventional girly wisdom that if I said yes—and then something *did* happen—that Leo might lose respect for me and we'd be over before we could begin.

So I opened my mouth, poised to protest, or at the very least, deflect. But instead, I breathed a helpless *yes* into the phone. It would be the first of many times I couldn't say no to Leo.

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The walk back is peaceful and quiet. There's no competition. No disharmony. Seldom have I had such an experience. It's a gift for both of us.

By the time we've put the museum campus behind us, I really am tired.

Tom slides to the curb on Lake Shore Drive, south of Balbo. I'm hungry. I'm looking forward to one of Lawry's steaks and a baked potato. Ready and willing to have someone fuss over me.

Saying good-bye to Charley is going to be harder than I anticipated. Momentarily I consider going to O'Hare in the morning to see him off. Sanity overtakes me just about the scene in the gate area waiting for his flight.

When Charley mentions it as we wait for dessert and coffee, I'm primed with an answer.

"Charley, I want guarantees just as much as the next woman. It's just not how things work all the time. I've given you the best I'm capable of at the moment. I have to trust the future to unfold in our best interests.

"It's been great. If I never see you again, it's been wonderful. You've shared yourself with me. A self I didn't think you had when I stepped into the elevator. I'm lucky. There's a place inside that hopes the ultimate intimacy would

WHAT IF - Chapter 12

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express how I feel. But that's not ours right now. Maybe never.
My parting gift to you is that I want to."

"I can fix that, Bonnie."

"No you can't, Charley. It would change everything. We need to get our own lives in order first. Perhaps then. But only then." I drain my coffee and push the cup and saucer away.

"Call if you think of me fondly. I promise not to fight with you or be intrusive. No matter what your decision. At least that's my hope.

"We're both very lucky, Bonnie. Few people get to go back and revive a lost opportunity. We've done that. It's been a great experience. I'll cherish it always.

"I'll let Tom take you home, so it continues to be a perfect ending. For now."

"I agree. Otherwise, it would be a long ride in a darkened backseat. Even I am not impervious."

After we thread our way through the tables and Sunday dinner crowd, in Lawry's ornate, slightly gaudy lobby Charley holds me from him for a last look.

"Everything I'd hoped. Your genuine friendship is much preferable to a quick roll with an adolescent fantasy. At our ages, it would probably be . . . Oh well. But if things change, I will cherish you. I promise."

Infringement No. 34, Exhibit 34

probably wouldn't feel *either* of those things at all if I hadn't made the mistake of disclosing a little too much during one of our early-relationship, late-night conversations. Specifically, I had used the word *intense* to describe what Leo and I had shared. It didn't seem like that much of a revelation as I had assumed that Margot had told him a thing or two about Leo and me, but I immediately knew it was news to him when Andy rolled over in bed to face me, his blue eyes flashing in a way I'd never seen before.

"Intense?" he said with a wounded expression. "What exactly do you mean by *intense*?"

"Oh, I don't know . . ." I said.

"*Sexually* intense?"

"No," I said quickly. "Not like *that*."

"Like you spent *all* your time together? Every night and every waking moment?"

"No," I said again. My face grew hot with fresh shame as I recalled the night that Margot accused me of blowing her off for Leo. Of being one of *those* girls who puts a man ahead of a friendship. *And an unreliable man with no marriage potential to boot*, she added, disgusted. Even then, somewhere deep down, I knew she was probably right, but despite my guilt and better judgment, I just couldn't stop myself. If Leo wanted to see me, I dropped everything—and everyone—else.

"So what then?" Andy pressed. "You loved him to the heavens and back?" His voice dripped with playful sarcasm, but his hurt look remained.

"Not that kind of intense either," I said, struggling to find a way to put a detached, nonpassionate spin on *intense*. Which is impossible to do. Sort of like inserting a joyful note into the word *grief* or a hopeful note in *doomed*.

I cast about for a few more seconds before I finally offered up

WHAT IF - Chapter 1

8

Has Charley just purchased something? An interest in a sports team? A music-related company? Is he producing a Chicago-based movie? Fear crowds out curiosity.

At the lobby, I lunge from the elevator. Anxious to flee what I feel woefully inept to confront. For decades I've imagined his life in Los Angeles. A city which 28 years ago I decided would never be home for me.

Nearly running, I stride toward the building's La Salle Street doors.

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Fear steals my breath. Charley has never done anything simple or easy. Notorious is his ferocity. Friend or foe. I'd would be a picnic in a hurricane. Raging 140 miles-an-hour winds, then the sudden tranquility of the eye. Then torrential rain blotting out everything.

Infringement No. 35, Exhibit 35

a weak, "I didn't mean intense . . . I take it back . . . It was a bad choice of words."

It *was*, indeed, a bad choice of words. But only because it was true—intense was *precisely* what Leo and I had been together. Nearly every moment we shared felt intense, starting with that very first night in my dark hotel room when we sat cross-legged on my bed, our knees touching, my hands in his, while we talked until sunrise.

"Too late," Andy said, smirking and shaking his head. "No take-backs. You can't strike this one from the record, Dempsey."

And so it *was* too late.

Fortunately, Andy wasn't one to beat a dead horse, so Leo's name seldom came up after that. But for a long time, whenever someone used the word *intense*, Andy would shoot me a knowing look or make a wisecrack about my "oh-so-smoldering, ever-passionate" ex-boyfriend.

I am not up for that kind of scrutiny now—joking or otherwise. Besides, I reason, as I peel off my jacket and hang it on our wobbly wooden coat rack, if the tables were turned, I'd rather not know about a chance run-in he had with Lucy, his most-beloved and long-time ex, who is now a third-grade teacher at a snooty private school in Atlanta. According to Margot, Lucy was as smart and wholesome as they come while still looking like she could be a body double for Salma Hayek. It was a direct quote I could have lived without.

With this rationalization, I decide once and for all that it is in everyone's best interest to keep my insignificant secret a secret. I plop down on the couch next to Andy and rest my hand on his leg. "So why are you home so early, anyway?" I ask him.

"Because I missed you," he says, smiling.

"C'mon," I say, feeling torn. I like this answer, but almost hope there is more to it this time. "You've *never* been home this early."

"I *did* miss you," he says, laughing. "But my case settled, too."

indicates he expects forgiveness without having to ask. I just want to forget the whole thing.

Thrusting each stem into the coffee pot, tears run down my face. I'm not sure why. Am I crying for the two young people who gave up so much to get what they thought they wanted?

He wanted to sing and be famous. I was expected to marry, have a family and be devoted to my husband. Charley was blind to the strings attached to his future. I was ill-prepared.

Charley's right. What if I hadn't had Asian Flu? What if we'd gone to the Varsity for coffee? How would our lives have been different? Based on how mine turned out, I'd have squandered the possibility. Perhaps Charley's quest for fame and fortune would have flattened me.

Replacing the silk peonies from a Smithsonian catalogue, I center the arrangement on the dining room table. I'd be embarrassed if any of my friends saw it. Emily would get it immediately. She'd counsel me to resist, no matter who he is. So far, neither Emily or anyone else knows.

Infringement No. 36, Exhibit 36

e m i l y g i f f i n

I force another chuckle and say, yes, we'll have to do just that. Then Webb passes the phone back to Margot, and she tells me she loves me. I tell her I love her, too. Andy tells me to tell her that he loves her. And we both say we love the baby on the way. Then I hang up and lie back down next to Andy. We are facing each other, our feet touching. His hand is resting on my hip, just under my oversized T-shirt. We smile at each other, but say nothing, both of us processing the big news. News that feels way bigger than, say, running into an ex-boyfriend on the street.

And so, for the first time since I left that intersection, I feel a sense of perspective wash over me. Perspective that wasn't ushered in by sex. Or a fun dinner out. Or a night sleeping next to my adorable husband and awaking every few hours to hear his reassuring, steady breathing. Leo has no place in this moment, I think. He has no part in Andy's family. *Our* family.

"You want one, too?" Andy says, his hand moving around me, and then massaging the small of my back.

"One what?" I say, even though I know what he's referring to.

"A baby," he says. "I know you and Margot like to do things together."

I can't tell whether he's joking or propositioning me or speaking theoretically, so I just murmur, "Someday."

Andy's hand moves more slowly and gradually stills. Then he closes his eyes for a few more minutes of sleep while I watch his eyelids flutter and imagine someday, *every* day, with Andy.

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CHAPTER 27 - EMPTINESS

"I relapsed, Bonnie." Charley sounds pitiful. A hook trailing in the water.

"I'm sorry to hear that, Charley." In my bedroom, I was catching up on accumulated newspapers. Dropping into the chair, I tuck my knees under the University nightshirt.

"I just can't stay sober without you."

Charley has no idea his soliloquy is older than Hamlet's. I run my finger around the edge of the placemat. I just want to get through this conversation and move on.

"No, Charley. You don't want to stay sober. It's just easier to blame me."

"I'm so depressed I can't get out of bed."

"That's depressed, Charley. Did you try going to an AA meeting?" Because I once cared, I try to be practical.

"That won't work."

Infringement No. 37, Exhibit 37

seven

Thoughts of Leo fade almost
completely over the next week, which I credit to my contented life with Andy, Margot's exciting news, and maybe most of all, my work. It's amazing what a productive, satisfying week of work can do for your psyche, and I consider myself very lucky (or as Margot would say—*blessed*—a nice, spiritual spin on the source of good fortune) to have the kind of job I can get happily lost in. I read once that when the hours pass in a blur while you work, you know you have found your calling, and although every day isn't like this for me, I certainly am no stranger to that immersed feeling.

I now own my own one-woman photography business, working on a freelance basis. I have an agent who books assignments for me—anything from advertising shoots for hefty sums, sometimes as much as several thousand dollars for a couple days' work, to smaller, editorial assignments, which I actually prefer from a creative standpoint.

WHAT IF - Chapter 6

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"Okay, but no later. I'm tired of waiting for you. Forty-five years was too long. Where should I meet you?"

Dropping my voice, I turn into the sound-deadening padded wall. "Do you know a restaurant called the Elephant and Castle?"

"Sure. The banker took me there for lunch the day you and I met. Again. I'll be there at 12:45."

"They'll be expecting Charley Walker."

Charley exhales, but says nothing more.

Leaning against the back of my chair, I'm lost in the monitor. I'd just about gotten over Charley Walker. As in not forgotten, but no longer occupying my every waking thought.

Noon, it turns out, is the worst time to expect quick seating at the Elephant and Castle. An Americanized English pub with a Chicago-size crowd. I check in, pleading for an immediate table. The hostess shakes her head. She points to the adjacent bar area for the membership committee's chairman. Removing my trench coat, I draped it over the sleeve of my gray suit jacket. I leave instructions regarding Charley and head for the bar.

Finding someone I've never met can be challenging. It proves relatively simple. I'm searching for a recent partner of a mid-size Loop law firm. Waiting for people he doesn't know. His is the second face I check. He owns up to his identity immediately.

Infringement No. 38, Exhibit 38

seven

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There's great value in being forced to do what I don't want to. It fills in time I might spend in self-pity. Or worse, self-doubt. I don't enjoy looking for a job. I've never met anyone who does. But, I like my apartment. It's the front door where Charley kissed me. It's home. Although it won't be for long if there's no money to pay the rent.

Perhaps unemployment is a blessing. Without basic demands like food and shelter, would I be able to leave my life alone? Would I start to pick, poke and prod? Turn it sideways searching for flaws. Try to figure out what I want. I'm much too busy to give my life more than passing acknowledgment. There's no time to wonder if I'm happy. Besides, Emily would be only too happy to tell me I am.

Toward the end of the day, I walk downstairs to get the mail. The card is so large, the letter carrier slid it into the box diagonally. It's larger than the sorry cards from a previous husband. For a moment I consider leaving it there.

The parchment envelope says, "I'm expensive. Be impressed even before you open me." The return address states simply, "Charley." There are two first class stamps. There's no way I want to open it. And no way I won't.

Up three flights of stairs I race and open a chocolate bar. Anxiously I slit the envelop. Lilies of the valley are embossed

Infringement No. 39, Exhibit 39

seven

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will have to tell him. When I'll have to wait for his reaction. That courage will take some building up to.

Now that I've had time to think about it, I'm no longer certain candor is required. I chose not to share my unemployment with any more people than absolutely necessary. Two of my three sons didn't know, my priest, my mother, many of my friends, my prayer group.

I'm beginning to suspect that sharing all the events in my life isn't necessary. Why burden people who don't have an immediate impact on my circumstances. We're already overwhelmed by the fear- and doom-mongering media. I'm doing my part to keep it to a minimum. My friends and family can worry about terrorists, urban crime, global warming, privacy invasion. They certainly don't need to struggle with the transitory of my life. Especially Charley.

Perhaps he'll discover I'm a nut case and flee back to Christine faster than the email announcing it. That would be okay, too. Nothing is more important than today.

Today I'm an intellectual property paralegal. I love the work. I'm lucky to be able to do something I'm good at. Something I respect. That adds value to the lives of others.

My father held six patents. One uncle invented cereals. Another created copyrights. My youngest son is a named-inventor

Infringement No. 40, Exhibit 40

emily giffin

I love portraiture most of all—perhaps because I'm not a very outgoing person. I don't talk easily to strangers, although I wish I could, and taking someone's portrait allows me to make that inroad. I enjoy meeting someone for a leisurely afternoon, becoming acquainted over lunch or coffee, and then getting down to business. I love the trial and error of it all, tinkering with various positions and lighting until I get it just right. There is nothing more satisfying than capturing that one, perfect image. My interpretation of another soul. I also love the variety of the work. Shooting an entrepreneur for *Business Week*, for example, feels very different from taking photos for a piece in *The New York Times* Style section or a glossy spread for *Town & Country*, and the people I'm photographing vary as much as the publications. In the past few weeks alone, I've shot a bestselling author, the cast of an art-house film, a college basketball star and his legendary coach, and an up-and-coming pastry chef.

In short, I've come a long, *long* way since my days of processing film on Second Avenue, and my only lingering regret about my encounter with Leo—other than that it happened at all—is that I didn't have the chance to tell him about my career. Of course I would rather he know about Andy than my work; but ideally, I wish he knew about *both*. Then again, perhaps he knows more than he let on. Perhaps the reason that he didn't ask about my career is that he has already found my Web site or stumbled across one of my more prominent credits. After all, I've sheepishly poked about for his by-lines, skimming his features with a bizarre combination of detachment and interest, pride and scorn. It's a matter of curiosity—and anyone who says they are utterly indifferent to what their significant exes are doing is, in my opinion, either lying or lacking a certain amount of emotional depth. I'm not saying it's healthy to be past-obsessed, ferreting out details of every ex. But it's simply human

WHAT IF - Chapter 1

4

On that first Friday night, I crossed the university's sprawling urban campus to the Orientation Week dance. Held in a men's dorm. The campus miniaturized my high school's. I cut through the Student Union to look around. Draped in black marble grandeur, it overwhelmed the "Rec" above the swimming pool dressing rooms. There, we hung out after school and attended dances. Poodles skirts, ballerina flats and boys with D.A.'s. Away from home, that is. Vitalis in their hip pocket.

After climbing the half-flight of stairs to the dorm's multi-purpose room, I did what most new kids do. I stood next to the wall hoping someone would talk to me. It had worked after Miss Daniel's social dancing school. I hoped it would again.

Most of the transfer students were as awkward and shy as I. Unskilled at the daunting task of acquiring new friends. In my head, I sang along to 45's spun by a disk-jockey. Tapping my toes, but not dancing.

In the closing months of the Fifties, the rigid social code forbade girls asking boys. At the age of 12, in white gloves I took my first steps backwards. Miss Caroline Daniels' School of Social Dancing for young ladies and gentlemen. Afterward, while I waited for my dad, five boys would crowd into the booth as I drank a chocolate soda. From David I received my first ring. A signet with the Boy Scout crest. Seven years later I clung to that assurance.

Infringement No. 41, Exhibit 41

love the one you're with

nature to have an occasional, fleeting interest in someone whom you once loved.

So assuming Leo *has* come across my Web site or work, I hope he goes on to surmise that our breakup was a catalyst in my life—a springboard for bigger and better things. In some ways, he would be right about this, although I don't believe you can fully blame anyone else for your own lack of ambition—which was certainly a trend during our relationship.

To this point, I cringe when I think back to how complacent I became on the career front when I was with Leo. My love for photography never waned completely, but I certainly loved it with far less urgency—just as everything in my life became secondary to our relationship. Leo was all I could think about, all I wanted to do. He filled me up so completely that I simply had no energy left to take photos. No time or motivation to even contemplate the next rung on my career ladder. I remember riding the bus to the photo lab every day, well after I had learned everything I could possibly learn from Quynh, and saying things to myself like, “I don't need to look for another job. Money isn't important to me. I'm happy with a simple life.”

After work, I'd head straight for Leo's new place, back in Queens, ever available to him, only returning to my own apartment when he had other plans or when I needed a fresh supply of clothes. On the rare nights we were apart, I sometimes went out with Margot and our group of friends, but I preferred staying in, where I would daydream about Leo or plan our next adventure together or compile cassette mixes of songs that seemed cool enough, smart enough, soulful enough for my cool, smart, soulful boyfriend. I wanted so much to please Leo, impress him, make sure that he needed and loved me as much as I needed and loved him.

At first, it seemed to work. Leo was just as smitten as I, only in

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I make every effort to put the conversation away. I cannot afford to reflect on it. Nor mine it for the nuggets of hope I know are there.

While still willing, I pick up the receiver and dial Emily's number. She, I know, will set me straight in a hurry. Not only does she want me to be happy, I'm sure she's biased against Charley.

"Em, Charley just called." I relax in the safety of Em's control.

"Are you nuts?"

"I hope not. I told him to talk to Christine, not me. I called you so you would tell me I did the right thing."

"Of course you did. Are you disappointed? Did he hurt your feelings?" Her concern is obvious.

"He didn't even try. He's just frustrated from cutting through the brush to get to the fountain. He knows the water is sweet and exhilarating. He wants it, but his arm is weary from swinging the machete."

"Why do you bother? He's not even handsome. What can you possibly see in him besides his money? Which I know you don't care about. Otherwise you'd still have your last job."

"Em, that cut was a little too deep." I drop back into the chair to recover.

"Sorry. You know I only have your best interests at heart."

Infringement No. 42, Exhibit 42

love the one you're with

same type, again and again. Or I might have become *too* absorbed in work.

Instead, I was optimistic, content, self-sufficient, and as settled as you can really be when you're young, single, and living in a big city. I still dwelled on Leo (and "what went wrong") much more than I cared to admit to anyone—even myself, and the thought of him could still stop me in my tracks, send a ripple through my heart, fix a knot in my chest. But I had learned to manage those emotions, compartmentalize them. The worst of the pain had receded with time, as it always does, for everyone. I mostly saw Leo for what he was—a past love who was never coming back, and I saw myself as a wiser, more complete woman for having lost him. In other words, I was ripe for a new relationship, a better man.

I was ready for Andy.

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I will not be happy to see Emily. She'll gloat for a week. However, even she will be shocked that I didn't tell him.

The flight home is shorter, but seems longer. I remain belted into my seat like the shell-shocked refugee I am. Coated with the ash of a dream. Food seems disrespectful of the dead.

Somewhere inside I know there is a spark of life. Tomorrow I'll have to search it out and fan it back to flame.

I've never been so grateful to get to work in my entire life. It's like being brought back from the dead. My limbs start to work. My mind begins to function. Someone asks my opinion as if it's valuable. I'd kiss the carpeting in my office, except anyone seeing me would suggest commitment. They cannot possibly know how lucky they are to have lives. To be more than mannequins filled with cotton wadding.

Welcome home, Bonnie. You've been away a long time.

I left Charley in Los Angeles. At the moment, I hope never to see him again. I so totally don't care.

Infringement No. 43, Exhibit 43

eight

I will never forget the moment when I knew that Andy was interested in me as more than just his sister's best friend, or even, for that matter, *his* friend. Interestingly, it didn't happen in New York, even though Margot and I saw Andy on a fairly regular basis, usually out at the bars for a few drinks, our group of friends mixing well with his.

Rather, I was in Atlanta, home with Margot and Andy for Thanksgiving, the three of us flying in the night before. It was well after we had finished the feast that Margot's mother, Stella, had prepared single-handedly (the Grahams' longtime housekeeper, Gloria, had been given the week off), and the worst of the dishes had been cleared and loaded into the dishwasher. Andy and I were alone in the kitchen after I had volunteered to wash the crystal and silver (and nobody objected, which made me feel even more welcomed), and Andy had quickly offered to dry—which I thought was particularly

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CHAPTER 7 - GRATITUDE

"Bonnie?"

"How did you get this number, Charley?" Involuntarily I glance at the peace offering on the Danish oil-rubbed walnut dining room table.

"We've had this conversation before, Bonnie." That famous edge which keeps everyone off balance.

"The flowers arrived while I was on retreat. They're beautiful. Is there anything else?"

"No. I just called to ask you what I'm grateful for. I'm going to a Thanksgiving dinner at some producer's house. Nothing that big can be called a home. Christine wants to go.

She loves rubbing body parts with movie people. Mind you, she doesn't want to strike up a friendship. Apparently, being married to me is instructive enough. She wants to see and be seen. Occasionally she gets to read her name on the society pages. One thing she won't and can't do is create a stir of her own. It's in the pre-nuptial."

Infringement No. 44, Exhibit 44

emily giffin

soapy water and fished out two silver teaspoons. I was thinking how lucky I was to be here—that this was exactly how Thanksgiving was supposed to feel—except, perhaps, for the near sixty-degree weather.

My own family had disappointed me that year—which was not uncommon since my mother's death. My father tried for a few years to continue our traditions, but Sharon changed all of that—not in an ill-intentioned sort of way, but simply because she had her own children and her own way of doing things. That year, she and my father had gone to Cleveland to visit Sharon's son, Josh, and his new wife, Leslie, who was a former cheerleader from Ohio State, a fact that Sharon seemed exceedingly and disproportionately proud of. This left Suzanne and me to fend for ourselves, and although I was dubious about two single sisters creating a satisfying Thanksgiving, a holiday revolving around food, when neither of us was adept in the kitchen, I was willing to give it a go. Suzanne, however, was not. She made it clear to me that she wasn't going "to do the holidays this year." I wasn't sure exactly what that meant, but I had grown accustomed to her moods and knew that forcing a traditional Thanksgiving upon her was unwise. So I was beyond grateful when Margot invited me home with her.

I told Andy some of this now, as he asked about my family, careful not to sound bitter and betray my father and sister. Or worse, sound like Margot's pitiful, matchstick friend.

Andy, who had just strapped on a frilly blue apron, more for the comedic effect than any utilitarian purpose, listened intently and then said, "Well, I'm very glad you're here. The more the merrier, I always say."

I smiled, thinking that a lot of people use that expression, but the Grahams truly *believed* it, and so far today, at least a half-dozen friends had dropped by to say hello, including Margot's high school boyfriend, Ty, who had brought over two-dozen famed, pastel thumbprint cook-

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CHAPTER 11 - SURPRISE, BONNIE

The chauffeur apparently doesn't need directions to my building. Watching the ribbons of wheels, I realize how lucky I am. I've been able to walk through intense grief. And unlike the past, I didn't have to do it alone. As requested, the chauffeur stops at the corner.

"Thank you, Tom." I use the name Charley called him.
"You've made a tough day easier."

Tom glances into the rearview mirror to determine whether it's a meaningful exchange or a bread-and-butter dismissal. Briefly our eyes connect in acknowledgment and appreciation. One of the moments that drive my life.

I'm not just a package being delivered. Tom waits while I walk toward the building. As I turn the key in the lock of the inside door, I pivot to see him pull away from the curb.

I feel cared for and protected. A far cry from the lonely, heart-rending days of 1963. Now, I wonder how long it was before I smiled again. Perhaps not until I found the Lieutenant's note

Infringement No. 45, Exhibit 45

emily giffin

that I was going on record, and although I wanted to be accurate, I also wanted to come across as strong. "No," I finally said. "It was a clean break."

This was a bit of an exaggeration, given my grieving period, but I reasoned that it *was* clean on Leo's end. Besides, if you never contact someone even *once* after your final breakup, isn't it, by definition, clean? No matter what you feel like on the inside? I thought about the one occasion that I almost called Leo. It was right after September Eleventh. At most a week had passed, but the country—and certainly the city—was still in that awful haze of grief and fear. I knew that Leo's offices and home were nowhere near the World Trade Center, and that he seldom had an occasion to visit New York's financial district. But still. There were so many crazy stories that day—stories about people being in places where they normally weren't—that I started to imagine the worst. Besides, I reasoned to Margot, I was getting lots of calls from old friends, even minor acquaintances, who were checking on me. Wasn't it the compassionate, decent thing to do? After all, I might have had bitter feelings toward Leo, but I wanted him to be *alive*. My rationalizing got nowhere with Margot who convinced me that I couldn't, under any circumstances, contact Leo, and she did so with one simple, irrefutable argument: "He's not calling to check on you, is he?"

I added a bit more detergent to the running water, the scent of lemon filling the air, as Andy nodded and said, "Clean breaks are always good."

I murmured my agreement. "Yeah. I never really understood those people who are all buddy-buddy with their exes."

"I know," Andy said. "Someone's still holding a flame."

"Like Ty," I said, laughing.

"*Ex*-actly," Andy said. "I mean, c'mon, man, let the dream die already."

WHAT IF - Chapter 15

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furnace to the cooling area. Yamanaka has already been notified of its publication date.

"Well?" Her black penny loafers are firmly planted in my escape route.

"Well, what? I'm not supposed to meet him until six." On the back of my door hang a pair of jeans and a teal knit top, a substitute for the navy suit and stained-glass print blouse I'm wearing. I'll take them home tomorrow.

"That's four hours from now, Val. Right now I'm researching a proposed mark for photographic paper for home printers. So far there's not much competition. For the word mark at least. It's a made-up word, like Kodak and Xerox. The strongest type of mark."

Not distracted and barely five-three, Val presses her point. "He hasn't called or anything?"

"No. It doesn't occur to him to check in. He expects me and everyone else to keep up. It's useless to expect him to act like a normal man. But maybe that's a refreshing change."

"I know what you mean." She drops into the mauve and blue client chair. Seven years ago Val married her second husband. From the beginning Gregory took Val's complicated family situation in stride. Her brother, Bobby. Bobby had been the breaking point in her first marriage. But Greg can't see anyone

Infringement No. 46, Exhibit 46

love the one you're with

I laughed, thinking that I had certainly let the dream die with Leo, not that I had much of a choice in the matter.

"So," Andy came right out and asked next, "are you seeing anyone now?"

I shook my head. "No. Not really. Occasional dates here and there—mostly compliments of Margot. I think she's set me up with every straight, single man in the fashion industry . . . But nothing serious . . . What about you?"

I asked the question even though I basically knew his status—he was single again after a short stint with an off-Broadway actress named Felicia. Margot didn't know many details, only that they had broken up, and that she was pretty sure it was mostly Andy's doing. Apparently Felicia was too high maintenance—a drama queen even off-stage.

Andy confirmed with a chipper, "Single," as I handed him a crystal goblet.

He shot me a sideways smile that made me suddenly wonder if he was doing more than making small talk and helping with the dishes. Could Margot's brother actually be *interested* in me? *Not possible*, was my first instinct. It didn't matter that Andy was approachable, friendly, and somewhat goofy; he was still Margot's very cute, very successful, *older* brother, which made him feel, somehow, out of my league, or at the very least, off-limits. So I pushed any romantic thoughts of Andy out of my mind as we continued our rhythm of washing and rinsing and drying. Then suddenly, we were finished. And surprisingly, I was sorry we were.

"That about does it," Andy said, drying his hands, untying the apron, and folding it neatly on the counter. I pulled the stopper out of the sink and watched the water drain, slowly at first but then in a loud *whoosh*. I dried my hands and wiped down the counter with a monogrammed *G* hand towel. I had the sense that I was stalling, but stalling for *what*, exactly, I wasn't sure.

WHAT IF - Chapter 1

7

to explain to the dorm mother. Fearful of social approbation, I didn't want my appearance to be misconstrued.

Reluctantly I rose. Among 30,000 students, I wondered if I'd ever see or hear him again.

Instantly I regret my transparent face. Although Charley has long been a household word, I am not. What can he be thinking? He can't know the number of times I've repeated our ill-fated meetings. Each time I hear his songs, they're the greeting of an old friend.

His energy penetrates. Awakening parts I'd forgotten were there. Flustered and embarrassed, like an adolescent I drop my eyes. When I finally get over myself, Charley's expression is quizzical. In his own reverie, he comes up with something. Silently he mouths a name.

Can it be Bonnie Lancaster? What? Are you mad?

Around him the three suits turn to the unspoken. "Something wrong," the silver-haired banker, too polished to breathe, asks Charley.

"Uh, no." Charley continues to hold my gaze.

Awkwardly I turn to attend the rolling descent of floors above the doors. Approximately 30 seconds to decide.

Infringement No. 47, Exhibit 47

WHAT IF - Chapter 1

9

Charley's fists jump from his pockets to his hips. "Where the hell were you? I went to Sherman Hall to pick you up for our coffee date. The dorm mother said you weren't there."

I stutter, "I was in the university hospital, Charley. I had a fever of 103°. Asian Flu."

"So why didn't you call," he demands.

"I didn't get back to Sherman for four weeks--two in the hospital and two at my aunt and uncle's. By that time, no one thought to tell me you'd been there."

"We had a date, Bonnie. I was there." Charley glares at me.

My eyes drop to the beige confetti marble floor. "I'm sorry, Charley. But clearly it wasn't supposed to be. I only had a little life ahead of me. You had fame and fortune." I chance a glance at his angry face.

Charley takes a deep breath, pockets his hands and starts again. "Could we please have coffee or something? To catch up on the last 45 years. Don't you think you owe me?"

"I, uh, really?" His demand in view of our relative social importance offers some courage.

"It's the least you can do, Bonnie. After 45 years." Charley checks the pedestrian flow in and out of the building. So far no one seems to have recognized him. Is he disappointed?

"It was so long ago, Charley. Are you still mad?"

emily giffin

as striking a love connection with a dark stranger while sequestered on a murder trial, but in some ways it was even *better*. It had substance. A sweet, solid core. A foundation of friendship and family—the simple things that *really* mattered, things that lasted. Andy wasn't about mystery because I already knew him by the time he asked me out. Maybe I didn't know him *well*, and the knowledge I did have was mostly filtered through Margot—but I still knew him in some fundamental, important way. I knew where he came from. I knew who he loved and who loved him back. I knew that he was a good brother and son. I knew that he was a funny, kind, athletic boy. The sort of boy who helps with the dishes after Thanksgiving dinner, ulterior motive or not.

So when Andy and I went on our first date a few days later, we were much farther along than your average couple out on a first date. We were at least in fourth-date terrain, able to skip the autobiographical, get-to-know-you fare and just relax, have a good time. There was no pretense, positioning, or posturing, which I had grown accustomed to at the end of my relationship with Leo—and on so many bad first dates beyond. Everything felt easy and straightforward, balanced and healthy. I never had to wonder what Andy was thinking, or how he felt, because he was an open book, and so consistently happy. Moreover, he was concerned with making *me* happy. He was a polite, respectful Southern gentleman, a romantic and a pleaser at heart.

Somewhere deep down, I think I knew from the start that our relationship lacked a certain intensity, but not in a way where I felt something was missing. To the contrary, it felt like a huge relief never to fret—sort of like your first day of feeling healthy after a vicious case of the flu. The mere absence of feeling miserable was euphoric. This, I thought to myself as Andy and I gradually grew closer, was the way things were supposed to be. This was how love was *supposed* to feel. More important, I believed that it was the only

Exhibit 48

Copyright Registration for the Novel What If

Certificate of Registration



This Certificate issued under the seal of the Copyright Office in accordance with title 17, *United States Code*, attests that registration has been made for the work identified below. The information on this certificate has been made a part of the Copyright Office records.

Marybeth Peters

Register of Copyrights, United States of America



Form TX

For a Non-dramatic Literary Work
UNITED STATES COPYRIGHT OFFICE

TXu 1-353-304



EFFECTIVE DATE OF REGISTRATION

Month 6 Day 1 Year 07

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

1

TITLE OF THIS WORK ▼

What If

PREVIOUS OR ALTERNATIVE TITLES ▼

PUBLICATION AS A CONTRIBUTION If this work was published as a contribution to a periodical, serial, or collection, give information about the collective work in which the contribution appeared. Title of Collective Work ▼

If published in a periodical or serial give: Volume ▼

Number ▼

Issue Date ▼

On Pages ▼

2

NAME OF AUTHOR ▼

a Grace Jo P. O'Leary

Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE Name of Country

OR Citizen of United States of America Domiciled in

DATES OF BIRTH AND DEATH Year Born ▼ Year Died ▼

1990

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

Sole author of above-named novel

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE Name of Country

OR Citizen of Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

NAME OF AUTHOR ▼

DATES OF BIRTH AND DEATH Year Born ▼ Year Died ▼

Was this contribution to the work a "work made for hire"? ☐ Yes ☒ No

AUTHOR'S NATIONALITY OR DOMICILE Name of Country

OR Citizen of Domiciled in

WAS THIS AUTHOR'S CONTRIBUTION TO THE WORK

Anonymous? ☐ Yes ☒ No

Pseudonymous? ☐ Yes ☒ No

If the answer to either of these questions is "Yes," see detailed instructions.

NATURE OF AUTHORSHIP Briefly describe nature of material created by this author in which copyright is claimed. ▼

3

YEAR IN WHICH CREATION OF THIS WORK WAS COMPLETED

2005

This information must be given in all cases.

DATE AND NATION OF FIRST PUBLICATION OF THIS PARTICULAR WORK

Complete this information ONLY if this work has been published.

Month N/A Day N/A Year N/A

Nation

4

COPYRIGHT CLAIMANT(S) Name and address must be given even if the claimant is the same as the author given in space 2.

Grace Jo P. O'Leary
1025 Pleasant Place, Apartment 11A
Oak Park, IL 60302

TRANSFER If the claimant(s) named here in space 4 is (are) different from the author(s) named in space 2, give a brief statement of how the claimant(s) obtained ownership of the copyright. ▼

APPLICATION RECEIVED

JUN 5 2007

ONE DEPOSIT RECEIVED

JUN 11 2007

TWO DEPOSITS RECEIVED

FUNDS RECEIVED

MORE ON BACK ▶

• Complete all applicable spaces (numbers 5-9) on the reverse side of this page.
• See detailed instructions.

• Sign the form at line 5.

DO NOT WRITE HERE

Page 1 of 2 pages

48

EXAMINED BY

FORM TX

CHECKED BY

CORRESPONDENCE

☐ YesFOR
COPYRIGHT
OFFICE
USE
ONLY

DO NOT WRITE ABOVE THIS LINE. IF YOU NEED MORE SPACE, USE A SEPARATE CONTINUATION SHEET.

PREVIOUS REGISTRATION Has registration for this work, or for an earlier version of this work, already been made in the Copyright Office?

☐ Yes ☒ No If your answer is "Yes," why is another registration being sought? (Check appropriate box.) ▼a. ☐ This is the first published edition of a work previously registered in unpublished form.b. ☐ This is the first application submitted by this author as copyright claimant.c. ☐ This is a changed version of the work, as shown by space 6 on this application.

If your answer is "yes," give previous registration number ▶

Year of Registration ▶

5

DERIVATIVE WORK OR COMPILATION

Preexisting Material Identify any preexisting work or works that this work is based on or incorporates. ▼

N/A

a

6

See instructions
before completing
this space.

Material Added to This Work Give a brief, general statement of the material that has been added to this work and in which copyright is claimed. ▼

N/A

b

DEPOSIT ACCOUNT If the registration fee is to be charged to a Deposit Account established in the Copyright Office, give name and number of Account.

Name ▼

Account Number ▼

N/A

a

7

CORRESPONDENCE Give name and address to which correspondence about this application should be sent. Name/Address/Apt/City/State/Zip ▼

Grace Jo P. O'Leary
1025 Pleasant Place, Apartment 11A
Oak Park, IL 60302

Area code and daytime telephone number ▶ 708.660.9317

Fax number ▶

Email ▶

b

CERTIFICATION I, the undersigned, hereby certify, that I am the

Check only one ▶

- ☐ author
- ☐ other copyright claimant
- ☐ owner of exclusive right(s)
- ☐ authorized agent of

of the work identified in this application and that the statements made by me in this application are correct to the best of my knowledge.

Name of author or other copyright claimant, or owner of exclusive right(s) ▲

8

Typed or printed name and date ▼ If this application gives a date of publication in space 3, do not sign and submit it before that date.

Grace Jo P. O'Leary

Date ▶ May 29, 2007

Handwritten signature ▼

Grace Jo P. O'Leary

Certificate
will be
mailed in
window
envelope
to this
address:

Name ▼

Grace Jo P. O'Leary

Number/Street/Apt ▼

1025 Pleasant Place, Apartment 11A

City/State/Zip ▼

Oak Park, IL 60302

YOU MUST

- Complete all necessary steps.
- Sign your application in space 8.

SEND ALL REQUIREMENTS
IN THE SAME PACKAGE

1. Application form

2. Nonrefundable filing fee in check or money
order payable to: Register of Copyrights

3. Deposit material

MAIL TO:

Library of Congress
Copyright Office
101 Independence Avenue SE
Washington, DC 20540-6222

9

*17 U.S.C. § 506(a): Any person who knowingly makes a false representation of a material fact in the application for copyright registration provided for by section 409, or in any written statement filed in connection with the application, shall be fined not more than \$2,500.

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Exhibit 49

Publishers Weekly March 17, 2008 Review of
Love the One You're With

What If Query Letter to Theresa Park, at Sanford Greenburger Associates

Three screen prints from Theresa Park's website, www.parkliterary.com

"Acknowledgements" Page of Love the One You're With

Reviews

completed this second novel when she died of cancer in 2006. Pitch perfect from start to finish, the book is couched as the memoir of once-popular writer Constance Fenimore Woolson (1840–1894): a manuscript left behind at her death to counter her image as “a long-suffering, martyred spinster.” At its center is the vibrant, intriguing relationship between Woolson and Henry James, whom she meets in Paris in 1879. James calls her Fenimore (she’s the niece of *The Last of the Mohicans* author James Fenimore Cooper), and she calls him Harry; theirs was, Woolson says, “[a] marriage not of bodies, but of minds.” The stuff of conventional memoir is judiciously tucked in (Woolson’s travels; her encroaching deafness; James’s sister, Alice, and his circle), but with an immediacy, embodiment and frankness 19th-century memoir almost always lacks. Through Maguire’s elegant pen, Woolson, a writer who was often pigeonholed as a mere verbal colorist, gets to establish her significance to James: “Whenever Harry left he always took something from me, a little piece of my own imagination.” Maguire’s vivid depiction of those complex exchanges is utterly absorbing. (June)

Anybody Any Minute

JULIE MARS. St. Martin’s, \$24.95 (352p) ISBN 978-0-312-37869-1

Mars follows her memoir (*A Month of Sundays*) with a midlife crisis bildungsroman that is largely unexceptional, though not without charm. New Yorker Ellen Kenny, a 46-year-old ex-hippie, takes a side trip on the way to Montreal to visit her sister and impulsively buys a decrepit house with her credit card. This startles her husband, Tommy, and the effect that Ellen’s sudden purchase has on their marriage encompasses the most interesting and chilling parts of this novel. Less successful are Ellen’s entanglements in her new small town: her friendships with two feudal rednecks, Rayfield and Rodney; her wary guardianship of her sister’s son; strange dreams that inspired the purchase and swirl with the secrets she knows. The narrative often veers into silliness, camp (Rayfield nickname ex-wife “Doublewide”) and long stereotypes (Ellen’s Peru-

vian brother-in-law, for instance, plays the pan flute on street corners). The clumsiness, however, does not entirely overwhelm the moments of sweetness and light humor, and though there’s nothing that really sings, it’s a passable story of self-discovery and self-improvement. (June)

Abbeville

JACK FULLER. Unbridled, \$24.95 (272p) ISBN 978-1-932961-47-8

Pulitzer Prize-winning editorial writer Fuller (*Fragments*) delivers a resonant, intricate saga of the multigenerational Bailey/Schumpeter family of Abbeville, a farming community in central Illinois. Karl Schumpeter goes to work as a clerk at his uncle’s logging outfit before moving at the end of the 19th century to cosmopolitan Chicago to deal in grain futures. Once married, young Karl returns to Abbeville and prospers as an entrepreneur and banker. Almost 40 at the outbreak of WWI, Karl oddly travels to France to serve in the ambulance corps (showing shades of Hemingway, another Illinoisan). Later, after Black Tuesday, Karl’s illegal loans to friends and family land him in prison. Impoverished and humiliated, Karl eventually returns home to Abbeville and the shell of his former life. Years later, Karl’s grandson, George Bailey, loses his livelihood in the dot-com bust and searches for meaning and strength by examining Karl’s earlier travails. However, the dot-com bust pales when juxtaposed to the 1929 crash. The tales of the past generations feel more compelling and immediate. Fuller’s a talented writer, and his gifts are on full display when chronicling Karl’s life and times. (June)

Love the One You’re With

EMILY GIFFIN. St. Martin’s, \$24.95 (352p) ISBN 978-0-312-34867-0

A chance encounter with an old flame in Giffin’s bittersweet, sometimes rawkish fourth novel causes Ellen Dempsey to consider anew what could have been. Shortly after marrying Andy, Ellen runs into Leo, her “intense” first love. Leo, a moody writer, has secretly preoccupied Ellen ever since he broke her heart, so after seeing him again, Ellen wonders if her perfect life is truly what she wants or simply

what she was expected to want. This scenario is complicated by Ellen’s past: the early death of her mother and subsequent disintegration of her family have left Ellen insecure and saddled with unresolved feelings of guilt. These feelings intensify when Andy’s career takes the newlyweds from Ellen’s beloved New York City to suburban Atlanta. As Ellen’s feelings of inadequacy and resentment grow, her marriage begins to crumble. The novel is sometimes bogged down by characters so rooted in type that they, and the story line, can only move in the most obvious trajectory. However, Giffin’s self-aware narrator and focus on troubled relationships will satisfy those looking for a light women’s lit fix. (May)

Personal Days

ED PARK. Random, \$13 paper (256p) ISBN 978-0-8129-7857-5

Park’s warm and winning fiction debut is narrated by a collective “we” of youngish Manhattan office grunts who watch in helpless horror as their company keeps shrinking, taking their private world of in-jokes and nicknames along with it. The business itself remains opaque, but who eats lunch with whom, which of the two nearby Starbucks is the “good Starbucks,” and whose desk knickknacks have the richest iconography become abundantly clear. What starts out feeling like a cutesy set of riffs evolves into such a deft, familiar intimacy that when the next round of layoffs begins in earnest, the reader is just as disconcerted as the characters. As office survivors Lizzie, Jonah, Pru, Crease, Lars and Jason II try to figure out who’s next to get the axe, mysterious clues point to a conspiracy that may involve one or more of the survivors. By the time answers arrive, Park—former *Voice Literary Supplement* editor, a founding editor of the *Believer* and the creator of the e-zine the *New York Ghost*—has built the tension masterfully. Echoing elements from Ferris’s debut smash, *Then We Came to the End*, Park may have written the first cubicle cozy. (May)

★ The Diplomat’s Wife

PAM JENOFF. Mira, \$13.95 paper (352p) ISBN 978-0-7783-2512-3

Jenoff’s stirring sequel to her debut, *The Kommandant’s Girl*, chronicles

Grace Jo P. O'Leary
Post Office Box 3154
Oak Park, IL 60303-3154
708.660.9317

May 28, 2008

Ms. Theresa Park
Sanford J. Greenburger Assoc., Inc.
55 Fifth Avenue
15th Floor
New York, New York 10003

Dear Ms. Park:

Publishers Weekly states you recently sold a work of women's fiction. Therefore, I am submitting the first 50 pages of What If, a 396-page novel. The plot develops from intimate relationships for sixty somethings, the losses of aging and a hysterectomy.

The fictional relationship between fictional characters: rock 'n roll legend, Charley Walker, and a paralegal, Grace Plant, has its genesis a college relationship. The details of Grace's history and current circumstances are up to a point, based on my life. In a 1968 TIME article the particular rock star denied in the specific the collegial events. The relationship's common elements are: college history, addiction, relationship issues, mutual attraction, aging and the desire for an authentic life. Charley's initial motivation is a college crush. He tries to deepen his relationship with his wife, is rebuffed, they divorce, he tries to impress Grace with his life in Los Angeles, and after she refuses to do it his way, he relapses. Grace believes that sex is confined to a committed relationship. She sends Charley back to his wife when she discovers he has one. She learns she needs a hysterectomy and fears the loss of her sexuality and desirability. She attempts to tell Charley but for various reasons fails. Charley learns of the surgery when Grace doesn't answer the phone. After the surgery Grace works through her anger. Charley offers to move to Chicago, a trust fund and irrevocable power of attorney as proof of his commitment.

Set in Chicago and Oak Park, Illinois, the story includes various locations: Millennium Park, various restaurants, the Drake Hotel, the Jacqueline Kennedy exhibit. I worked for Mrs. Kennedy following the assassination. The action and tension are created principally by dialogue and bad behavior among Charley, Grace and Grace's friend Emily.

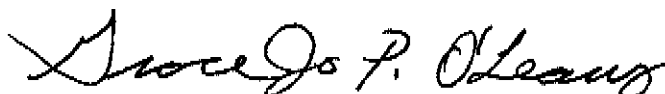
Recent publications include DUI Workpieces for Sobriety Counseling Groups and various articles of addiction and recovery and the legal profession. I have education and experience as an additions counselor. I continue to market Dragged Out of the Future, an 800-page novel of addiction and recovery.

Very truly yours,


Grace Jo P. O'Leary

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Enclosures

The above is a true and accurate copy
 May 28, 2008

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A destination for aspiring (and published) writers, foreign publishers seeking information about our clients, scouts, and film and television studios seeking information about available rights. Please refer to the sidebar on this page to guide your search.

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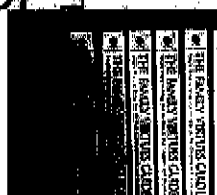
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STAFF BIOS



Theresa Park

Theresa began her career as a literary agent at Sanford J. Greenburger Associates in 1994. (Prior to that, she was an attorney at Cooley Godward, a Silicon Valley law firm). She represents a mixture of plot-driven fiction and serious nonfiction. Some of her clients include Nicholas Sparks, Debbie Macomber, Emily Giffin, Laura Zigman, Linda Nichols, Robert Whitaker, Lee Silver, B.R. Myers, and Thomas Levenson. A graduate of U.C. Santa Cruz and Harvard Law School, she is married to Greg Irkura, a photographer, and has two children.



Shannon O'Keefe

Shannon works with both established and first-time authors and is interested in developing long-term relationships with her clients. She is drawn to both literary and commercial fiction (including modern love stories, social comedies, and mysteries) and nonfiction (including cookbooks, sports, music, education, travel, and popular culture). Prior to joining The Park Literary Group in January 2005, Shannon worked at the New York literary agency, Sanford J. Greenburger Associates. Shannon received her BA and MFA from the University of Notre Dame.



Abigail Koons

Eager to work with emerging and established talent, Abigail is currently looking to add to her list of diverse and engaging authors. Her passion for travel makes her a natural fit for adventure and travel narrative non-fiction, and she is also seeking projects about popular science, history, politics, current events and art. She is also interested in working with commercial fiction, especially superb thrillers and mysteries. As the Foreign Rights Director, she continues to build on her prior experience with agent Nicholas Ellison, as well as her time with EF Education, a multinational corporation based in Sweden. Abigail is a graduate of Boston University.

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Nicholas Sparks

Nicholas Sparks is the author of the #1 New York Times bestsellers *The Choice*, *Dear John*, *At First Sight*, *True Believer*, *The Rescue*, and *Nights in Rodanthe*, as well as *The Notebook*, *Message in a Bottle*, *A Walk to Remember*, *A Bend in the Road*, *The Guardian*, *The Wedding*, and his moving memoir, *Three Weeks with My Brother*, written with his brother, Micah. Nicholas Sparks lives in North Carolina with his wife and family. More...

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Debbie Macomber

Debbie Macomber is the author of the #1 New York Times bestseller *74 Seaside Avenue*, as well as more than fifty novels, with over sixty million copies of her books in print. Her recent novels include *Back on Blossom Street*, *Susannah's Garden*, *A Good Yarn*, *Christmas Letters*, *The Snow Bride*, *Changing Habits*, and *Between Friends*, as well as the very popular *Cedar Cove* series. She is a multiple award-winner, and her work has appeared on every national bestseller list. More...

Emily Giffin

Emily Giffin is a graduate of Wake Forest University and the University of Virginia School of Law. After practicing litigation at a New York firm for several years, she moved to London to write full time. The author of the New York Times bestselling novels, *Something Borrowed*, *Something Blue*, and *Baby Proof*, she now lives in Atlanta with her husband and three young children. More...

Linda Nichols

Linda Nichols is the author of *Handyman*, *Not a Sparrow Falls*, *If I Gained the World*, *At the Scent of Water*, and *In Search of Eden*. Linda and her family make their home in Tacoma, Washington. More...

Lee M. Silver, Ph.D.

Lee M. Silver is a professor in the Department of Molecular Biology, and in Public Affairs at the Woodrow Wilson School at Princeton University. Professor Silver teaches courses and lectures widely on the social impact of biotechnology, with an emphasis on repro-genetics. In 1993, he was elected a fellow of the American Association for the Advancement of Science. He lives with his wife and three children in Princeton, New Jersey. More...

| Next

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Acknowledgments

Deepest gratitude to Mary Ann Elgin, Sarah Giffin, Nancy Mohler, Lisa Elgin, and Stephen Lee, who were with me from start to finish. I am so lucky to have you.

Many thanks to my amazing editor and friend, Jennifer Enderlin, and to so many others at St. Martin's Press, especially Sally Richardson, Matthew Shear, John Murphy, Matt Baldacci, Steve Troha, Dori Weintraub, Alison Lazarus, Tom Siino, Jeff Capshaw, Andy Lecount, Brian Heller, Rob Renzler, Ken Holland, Christine Jaeger, Nancy Trypuc, Anne Marie Tallberg, Mike Storrings, Harriet Seltzer, Christina Harcar, Kerry Nordling, Sara Goodman, Jeff Cope, Jeff Willmann, and the entire Broadway and Fifth Avenue sales forces.

Heartfelt appreciation to my parents, family, and friends, with special thanks to Allyson Jacoutot, Jennifer New, Julie Portera, Brian Spainhour, Laryn Gardner, Michelle Fuller, Jim Konrad, and Yvonne Boyd. Thanks also to Stephany Evans, Theresa Park, and Carrie Minton.

An abiding thank-you to David "Sarge" Tinga, my one-of-a-kind mentor and dear friend who will never be forgotten.

And finally, my thanks and love to Buddy, Edward, George, and Harriet.

Exhibit 50

Copyright Page for Love the One You're With

This is a work of fiction. All of the characters, organizations, and events portrayed in this novel are either products of the author's imagination or are used fictitiously.

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ISBN-13: 978-0-312-34867-0

ISBN-10: 0-312-34867-3

First Edition: May 2008

10 9 8 7 6 5 4 3 2 1